

103

PROPOSALS FOR IMMIGRATION REFORM

Y 4. J 89/2: S. HRG. 103-1079

Proposals for Immigration Reform, S...

HEARING

BEFORE THE

SUBCOMMITTEE ON

IMMIGRATION AND REFUGEE AFFAIRS

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

THE IMPACT OF IMMIGRATION ON THE UNITED STATES AND
PROPOSALS TO REFORM U.S. IMMIGRATION LAWS

AUGUST 3, 1994

Serial No. J-103-70

Printed for the use of the Committee on the Judiciary



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PROPOSALS FOR IMMIGRATION REFORM

WEDNESDAY, AUGUST 3, 1994

U.S. SENATE,
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:01 a.m., in room 216, Hart Senate Office Building, Hon. Edward M. Kennedy (chairman of the subcommittee), presiding.

Also present: Senators Leahy, Feinstein, Simon, and Simpson.

OPENING STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. If we could, we will come to order. This is perhaps violating some of our Senate procedures. Usually, we start hearings late. This morning, we are starting a little bit earlier to try and accommodate what is taking place on the floor of the Senate. We are going to be necessarily interrupted at 10:45, and we want to be able to utilize the time that we have.

I have a brief opening comment which I would make. Immigrants are America's roots, and except for Native Americans, all of us today are either immigrants or refugees or the descendants of immigrants or refugees. Yet on many occasions in our history, this unique aspect of our national heritage in which we take rightful pride has been accompanied by controversy over the appropriate direction of immigration policy.

One of the oldest themes in our history has become one of the most contentious current issues. In part, this development is a result of the times, the reflection of the many difficult domestic and international challenges that we face.

But part of the current controversy derives, as well, from existing immigration law and policies. Many of our current immigration laws or regulations are out of touch with the times and inadequate to meet modern needs. These problems are compounded by the continuous pressures of international migration.

Congress recognizes the urgent need for a comprehensive review of current immigration law and practice. In 1990, we enacted legislation creating a Commission on Immigration Reform. The Commission is now undertaking the thorough study of immigration policy that has long been needed.

We are pleased to have with us this morning the Commission's chairperson, former Congresswoman Barbara Jordan, who is well-known to all of us, who is an excellent choice for that important responsibility. She is accompanied by the vice chairman of the

Commission, Prof. Lawrence Fuchs of Brandeis and Commissioner Robert Hill and the Commission's Executive Director, Susan Forbes Martin.

In our second panel, we will hear from the representatives of the Clinton administration who will discuss our current policy, especially the issue of cost and benefits of immigration and the problems of undocumented immigrants. Our witnesses will be the new Director of the Office of Management and Budget, Alice Rivlin, and the Commissioner of the Immigration and Naturalization Service, Doris Meissner, who appeared before the committee last month with the Attorney General on the administration's proposals for reform.

I must say, it is an impressive indication of the importance that the administration has placed on this issue, both with Attorney General Reno and the head of the OMB, Alice Rivlin. We will be very grateful to both of them, the Attorney General appearing and Alice Rivlin appearing later today.

We are especially pleased to have a long-time friend of, I think, so many of us on this committee and in the Congress and Senate, a person who continues to make a very important difference in terms of this country's interest a real patriot, former Congresswoman Barbara Jordan and now the chairperson of this Commission.

I think many could wonder about the role of commissions and review the history. I was former chairman of the Administrative Practices Subcommittee years ago, and one of the recommendations that I had made, which didn't get very far, was when we appoint commissions, we follow sort of the British system where the recommendations are made, the administration makes a comment on them, and then they go to the Parliament, where they are either accepted or rejected, so that the people know you are going to get accountability when we are facing various challenges.

I think what we have seen in the past under the previous commissions that were directed by Father Hessburg that made important recommendations, both in terms of illegal and well as legal immigration, those recommendations by and large were followed and resulted in law.

I think it has been from that very constructive and positive tradition that this Commission was developed, recognizing that historically, we have only come back and re-reviewed immigration policy at too infrequent intervals rather than following and trying to deal with these issues as they develop and as they are forthcoming.

Barbara Jordan has been willing to really help us in the country to deal with this issue. We know that when we respond to the better instincts of our people, we take responsible action in immigration. When we fail to do that and respond to our darker instincts, other forces are released in our society and we fail to meet the central challenges about what our society and what the country is about, and that is being free from prejudice and racism.

We want to thank our panel for being here.

I see Senator Feinstein here. If there are any opening comments that you would like to make, you would be welcome.

Senator FEINSTEIN. No, Mr. Chairman, just to say basically that I agree with you. I am hopeful we can take some action. I am very eager to hear what the panel has to say and I thank you.

Senator KENNEDY. Thank you very much.

Our staff had talked with Senator Simpson, who was scheduled to be here at 10:15. He indicated that with his full support, we should move ahead. I know he will be here very shortly, and obviously very much involved in this issue. We will look forward to his presence, as well as Senator Simon.

Barbara Jordan, would you proceed? I want to just finally say I am very grateful to you for your presence up in Lowell, MA. The Commission visited Lowell, MA, and we had a little opportunity to visit. It is one of the interesting situations where we saw large numbers of Cambodians who came to this country and after a period of years went back up and located up there, and how a blue-collar community really reacts and responds to those who, with some very, very modest help really have ensured that those families are going to be a part of a community and are just making an enormously constructive and positive contribution to the life of that city and to our State.

Barbara Jordan?

STATEMENT OF HON. BARBARA JORDAN, CHAIRPERSON, COMMISSION ON IMMIGRATION REFORM; ACCOMPANIED BY PROF. LAWRENCE FUCHS, VICE CHAIRMAN OF THE COMMISSION; ROBERT HILL, COMMISSIONER; MICHAEL TEITELBAUM, COMMISSIONER; AND SUSAN FORBES MARTIN, EXECUTIVE DIRECTOR OF THE COMMISSION

Ms. JORDAN. Thank you, Senator Kennedy and Senator Feinstein.

I am delighted that we have this opportunity to present to you the preliminary findings of the Commission on Immigration Reform. You have already identified the vice chairman who is seated here with me, and Mr. Hill, a fellow Commissioner.

As you well know, immigration has become a highly visible policy issue. Sorting fact from fiction is not easy. It is emotionally laden. There are too few facts and too much fiction for my taste.

The Commission has heard contradictory testimony, shaky statistics, and a great deal of honest confusion arising from the impacts of immigration. Nevertheless, we have tried throughout to engage in what we believe is a systematic nonpartisan effort to reach conclusions drawn from the analysis of the best data available.

The recommendations I present today have been adopted by unanimous vote of the Commission, and I stress that, Senator, because this Commission is not monolithic in its ideology. This is a unanimous recommendation. People with different agendas were able to come together and forge the kind of consensus necessary for us to present these recommendations.

There are certain basic principles which underlie the Commission's work. We decry hostility and discrimination toward immigrants. That is antithetical to the interests of the country. At the same time, we disagree with those who label our efforts to control immigration as inherently anti-immigrant. It is not so. It is the

right and responsibility of a democratic society to manage immigration in a way that serves the national interest.

This Commission believes that legal immigration has been and can continue to be a strength of this country. We have different perspectives on the number of legal immigrants that can be absorbed into the United States or the categories that should be given priority for admission, but the Commission agrees that immigration presents many opportunities to this Nation. That is not to say that immigration does not present problems.

Senator Simpson, I am glad you are joining us.

Senator SIMPSON. I am sorry to be late, Madam Chairwoman, I will never do it again. [Laughter.]

Senator KENNEDY. I wish I got that kind of respect.

Senator SIMPSON. Straightened me up long ago. [Laughter.]

Ms. JORDAN. I am sorry, Senator.

The principle is that immigration is mixed. There are problems; there are also benefits. The principal and certainly the most urgent problem is unlawful immigration. Unlawful immigration is unacceptable to this country. It is unlawful and we need to curb it. We need to do this effectively as a nation of immigrants. The rule of law is a part of our commitment, and we must set limits on who can enter and back up the limits with credible enforcement of immigration law.

The problem of unlawful immigration will not be solved by quick fixes. There are no panaceas, nor will this problem be solved cheaply. If we are serious about controlling illegal immigration, we have got to commit more resources to it than we do now. This country must be more effective in targeting existing resources and strategies that are likely to at least help prevent unlawful immigration to the country.

In sum, curbing unlawful immigration requires a more effective method of deterring the employment of unauthorized workers. We need better border management. There needs to be a willingness and ability to remove those who have no right to remain in the country, with particular focus on criminal aliens. We need a consistent policy regarding eligibility for public benefits and enhanced capacity to respond to immigration emergencies, an effective strategy to reduce the pressures for migration in sending countries and better data for policy formulation and its implementation.

No one approach is sufficient. It needs to be comprehensive and coordinated. I will touch on the highlights of a comprehensive strategy which we will be recommending in the September report.

First, border management. Significant progress has been made during the past year in identifying and remedying some of the weaknesses in border management. Nevertheless, the Commission believes that far more can and should be done to meet what we consider to be the twin goals of border management, preventing illegal entries, and facilitating legal ones.

More specifically, the Commission supports enforcement strategies aimed at prevention of illegal entry at the border rather than apprehension following illegal entry. The Commission was favorably impressed with the pilot project in El Paso, "Operation Hold-the-Line". Prevention holds many advantages. It is more cost effective than apprehension and removal. It eliminates the cycle of vol-

untary return and reentry that has characterized unlawful border crossings. It reduces potentially violent confrontations between the Border Patrol offices and those who try to seek to enter the country illegally.

Prevention requires a combination of additional personnel, improved technology and communications, data systems that permit quick identification of repeat offenders, additional equipment including vehicles, and perhaps most important, political commitment to this approach. I emphasize that adding Border Patrol officers without giving them the tools they need to do the job is foolhardy.

Let me emphasize that a part of those tools is increased training for Border Patrol officers, improved procedures for adjudicating complaints against the Border Patrol, and better ways to provide redress or relief to those who are subjects of improper actions.

Adding to the Border Patrol without improving the avenues for legal entry will also not work. The Commission found during our investigations in El Paso that residents of Juarez with valid border crossing cards were crossing the river illegally because the wait on the bridge was too long. It could be as long as 3 hours. That makes no sense.

The Commission is investigating with the administration the best means of funding the enhancements we believe necessary in legal entries. Among the options we are considering is a user fee for border crossings, which would be used exclusively for the purpose of speeding legal crossings.

The Commission views favorably the consultations underway between the United States and Mexico regarding immigration matters. These discussions seem to be promoting greater cooperation by the two Governments in solving problems of mutual concern, such as border violence, violations of Mexican exit laws and United States entry laws, movements of third country nationals through Mexico to the United States, smuggling of people and goods, and similar interests. We encourage the continuation of these consultations.

Our other recommendations on border management are summarized more fully in my written testimony.

Our second set of written recommendations concerns the job magnets. Employment continues to be the principal reason illegal aliens come to this country. Even if the United States succeeds in stemming the flow of unauthorized immigrants across the land border with Mexico, unlawful immigration will not stop if jobs are available.

At present, an estimated half of all immigrants who are unlawfully in this country originally entered with permission. They remain here and work after the visa expires. I should note that the number who violate the terms of the visa, it is a small number, perhaps as few as 150,000 per year out of more than 20 million nonimmigrants, and yet they represent a sizeable portion of unauthorized immigrant population.

The Commission believes that both employer sanctions and enhanced labor standards enforcement are essential components of a strategy to reduce the job magnet for those who cross the border illegally and those who overstay their visas.

At the heart of many of the problems in current application of employer sanctions is the verification process used to determine work authorization. The current I-9 process appears to be the worst of all possible ways to check if someone is authorized to work in this country.

At each of our hearings, we heard about how easy it is to obtain fraudulent documents. For \$25, any illegal alien can purchase counterfeit driver's licenses and Social Security cards. For a bit more, they can buy a counterfeit green card. They can, with those documents, get a job in almost any business in the country.

At the same time, the I-9 process holds a great potential for increasing discrimination against foreign-looking or sounding citizens and legal immigrants. Employers are confused by its requirements and feel themselves between the proverbial rock and the hard place. If they accept documents on their face, they may be hiring illegal aliens. If they ask for more documentation without sufficient cause, they are discriminating.

The Commission recommends development and implementation of a simpler, more fraud-resistant system for verification authorization to work, and here comes the sticky. We examined dozens of options for improving verification, promising options, trying to secure nondiscriminatory verification. The most promising nondiscriminatory verification, we believe, is a computerized data base which would tell employers that a worker has a valid Social Security number and authorization to work in the United States.

The Commission believes we should stop talking about this issue and begin testing some new approaches along this line. The President has the authority to do it in the Immigration and Nationality Act. What we see is a pilot program in the five States most impacted with highest levels of illegal immigration. They have the vast majority of illegal aliens. Employers will need a way to determine that the individual about to be hired is actually the person with that Social Security number.

We heard conflicting testimony about the best way to check the applicant's identity. Proposals include a counterfeit-resistant driver's license, secure Social Security card, and a telephone verification system. The pilot could test several different approaches to see which works best. The pilot must also provide protection against use of the verification process for purposes other than those specified in law. They must contain safeguards to protect the privacy of everyone whose Social Security number is in the registry.

The Commission shares the civil liberties concerns of many in this country, that the process for verification employment authorization not become the basis for a national identity system or intrusion of privacy. We have far too many intrusions upon our privacy now.

I would like to just add a personal note here. I have spent my entire career trying to protect the Constitution, the civil rights, and the civil liberties of American citizens and people who are here lawfully. I, as chairperson of this Commission, would not be a party to any system which I felt was an unwarranted intrusion into the private life of people. If I felt that what we are recommending would be such an intrusion, I can assure you that recommendation

would never have seen the light of day, not even as a pilot program.

But we understand that there are civil rights and civil liberties complaints and apprehensions. We need to find out the best way to verify those who are entitled to employment. Those who quarrel with and object to the verification system usually will be those who are not wanting to find barriers to employment because they are not here legally. They are the ones who will be impacted.

The benefits to changing the verification process along the lines that we are talking about are numerous. The benefits are numerous. It will reduce time, resources, and paperwork spent by employers in abiding by the requirements of immigration law. It should also reduce any potential for discrimination. Employers would no longer need to ask, are you a citizen or an alien. The only relevant question is, what is your Social Security number? That is a question employers know now, employees know now, and must answer now when asked.

My written testimony has additional recommendations to deter the employment of illegal aliens, and we would be pleased to answer any questions that you might have about these proposals, but I want to move on to the third part of our strategy, public benefits.

Immigrant eligibility for public benefits has become a major focus of debate in this country. The Commission believes that decisions about eligibility should support the objectives of our immigration policy, to deter unlawful immigration and to support lawful immigration and eventual citizenship. Those are the objectives.

Using these objectives as a measure of benefit policy, we have come to the following conclusions. Illegal aliens should not be eligible for any federally-funded services or assistance except those made available on an emergency basis or for similar compelling reasons.

Benefits policies should send the same message as immigration policies. Aliens should not enter the United States unlawfully, and if they do, should not receive aid except in very unusual circumstances where there is an emergent need or specific assistance; where there is a public health, safety, or welfare interest, such as immunization, child nutrition programs, and school lunch programs; and where their eligibility is constitutionally protected.

On the other hand, legal immigrants should continue to be eligible for needs-tested assistance programs. The United States admits legal immigrants with the expectation that they will reside permanently in the United States. Current law bars the entry of those who are likely to become a public charge. They are not supposed to get in.

Nevertheless, the Commission recognizes that circumstances may arise after entry which create a pressing need for public help and serious attention and create a serious need and pressing need for public health. If you have an accident or an unforeseen illness or a death in the family, those are emergent situations and conditions.

The Commission is not prepared to lift the safety net out from under individuals we hope will become an integral part of our civic culture. We therefore recommend against any broad categorical de-

nial of such protection of legal immigrants on the basis of their alienage.

However, the Commission strongly endorses initiatives to ensure that immigrants do not become public charges and that sponsors are financially responsible for the immigrants that they bring to this country. In particular, the Commission believes that the affidavits of support signed by sponsors should be legally enforceable.

The Commission has also looked at the issue of impact aid for States and localities. The best way to alleviate financial impacts on State and local governments is to reduce unlawful immigration—reduce it. Until the steps we have outlined take hold, there is an argument to be made for financial help to States with significant number of illegal aliens. This aid should be provided contingent on the following conditions.

Fiscal impact and methods to measure the net fiscal impact of illegal immigration. In other words, we need good data to measure the net fiscal impact of immigration to a given State.

A mechanism designed to ensure that governments do not become dependent on that aid as continuing source of funding, and a requirement for cooperation by State and local governments with Federal authorities to enforce the immigration laws of the United States.

Let me depart from my prepared testimony for just a moment. A number of our Commissioners, myself included, reluctantly agreed to the recommendation about impact aid. During the 1980's, a number of States benefited financially from the presence of illegal aliens. Their political and business leaders were often in the forefront of efforts to keep our immigration policies weak. Our reluctance also stemmed from a deep-seated skepticism about the data which was used to estimate the cost to States and localities.

Nevertheless, we are convinced by the federalism argument. The federalism argument is that the Federal Government is ultimately responsible for immigration policy. Therefore, the Federal Government must bear some of the responsibility for helping States mitigate the impacts of these failed policies.

But first, we must do a better job of measuring what these impacts really are. We have got to do better. At present, the costs of incarcerating illegal aliens who commit crimes appear to be measurable.

The Commission thus supports Federal aid in this area. We intend to continue to look to other costs, particularly for the emergency health care and education for illegal alien children, before we make specific recommendations regarding impact aid for the costs associated with these services.

Rather than go into details on the other recommendations regarding criminal aliens, immigration emergencies, and ways to address unauthorized migration at the source, let me refer you to the written testimony and let us turn to the future.

As members of this committee know, the Commission is at a midpoint in its work. Our longer term agenda is to assess and make recommendations about the implementation and impact of the Immigration Act of 1990. The Commission has already begun a systematic factfinding process to measure the economic, social, demographic, and foreign policy effects of immigration.

We considered whether to make recommendations in our September 1994 report about the legal immigration system, including the numbers and criteria for admission, but we decided not to do so at this time. Why? The data and analysis needed to assess the full ramifications of current legal immigration simply is not available.

The Immigration Act of 1990 was not implemented until 1992, meaning that we have had only 2 years' worth of data and little experience with its impact to use to determine the effects of the bill. An important aspect of the law, the diversity program, has not even been implemented at this time.

To change a law that was 10 years in the making from the time of its predecessor Commission, on which both Senators Kennedy and Simpson sat, to change the law on the basis of the little information we have now to me seems a little bit premature.

The Commission will ensure a progress report on legal immigration as part of its report to Congress this September. We will continue to examine the effects during 1995. Should the Commission determine that changes in legal immigration policy are in order, we will report our recommendations by the end of next year.

That concludes my verbal testimony, but we certainly are here to answer any questions which you may desire to propose at this time.

[The prepared statement of Ms. Jordan follows:]

PREPARED STATEMENT OF BARBARA JORDAN

Mr. Chairman, members of the subcommittee, thank you for providing this opportunity to report on the work of the U.S. Commission on Immigration Reform.

The Commission was created to assess and make recommendations regarding the implementation and impact of U.S. immigration policy. Mandated in the Immigration Act of 1990 to submit an interim report in 1994 and a final report in 1997, the Commission has undertaken public hearings, fact-finding missions, and expert consultations to identify the major immigration-related issues facing the United States today. I am pleased to share our preliminary findings and recommendations with you today. Our report, which will be submitted on September 30, will provide fuller details on these recommendations and the reasons we are making them.

The process undertaken by the Commission has been a complex one. Distinguishing fact from fiction has been difficult, in some cases, because of what has become a highly emotional debate on immigration. We have heard contradictory testimony, shaky statistics, and a great deal of honest confusion regarding the impacts of immigration. Nevertheless, we have tried throughout to engage in what we believe is a systematic, non-partisan effort to reach conclusions drawn from analysis of the best data available. The recommendations that I present today have been adopted unanimously.

PRINCIPLES UNDERLYING WORK OF THE COMMISSION

Certain basic principles underlie the Commission's work. We decry hostility and discrimination towards immigrants as antithetical to the traditions and interests of the country. At the same time, we disagree with those who would label efforts to control immigration as being inherently anti-immigrant. Rather, it is both a right and a responsibility of a democratic society to manage immigration so that it serves the national interest.

The Commission believes that legal immigration has been and can continue to be a strength of this country. Most legal immigrants are the spouses, children, parents or siblings of a U.S. citizen or long-term permanent resident. A smaller number are sponsored by U.S. businesses that need their skills and talents. While there may be disagreements among us as to the total number of immigrants that the United States can absorb or the categories to whom the U.S. should give priority for admission, the Commission agrees that legal immigration presents many opportunities for this nation.

That is not to say that the Commission is unmindful of the problems that may also emanate from immigration. Too many have abused the very hospitality that we

grant so freely. Unlawful immigration is unacceptable. Enforcement measures have not sufficiently stemmed these movements. Failure to develop more effective strategies to curb unlawful immigration has blurred distinctions between legal and illegal immigrants. Many communities legitimately fear that they have lost the ability to integrate the diverse range of individuals and families who enter their communities. The Commission is particularly concerned about the impact of immigration on the most disadvantaged within our already resident society—inner city youth, racial and ethnic minorities, and recent immigrants who have not yet adjusted to life in the U.S.

For the Commission, the principal issue at present is how to manage immigration so it continues to be in the national interest. Managing immigration presents a number of challenges:

- How do we ensure that immigration is based on and supports broad U.S. economic, social and humanitarian interests rather than the interests of those who would abuse our immigration laws?
- How do we manage our borders while still encouraging international trade, investment and tourism?
- How do we maintain a civic culture based on shared values while accommodating the diverse population admitted through immigration policy?

It will be impossible to reach answers to these questions unless our policies and their implementation are more credible. As far as immigration policy is concerned, credibility can be measured by a simple yardstick: people who should get in, get in; people who should not enter are kept out; and people who are deportable should be required to leave.

The Commission is convinced that immigration can be managed more effectively and in a manner that is consistent with our traditions, civil rights and civil liberties. As a nation of immigrants committed to the rule of law, this country must set limits on who can enter and back up these limits with effective enforcement of our immigration law.

RECOMMENDATIONS

The problem of unlawful immigration will not be solved by quick fixes. There are no panaceas. Nor will this problem be solved cheaply. If the nation is serious about controlling illegal immigration, it must commit substantially more resources than are currently available to accomplishing the measures required. The U.S. must also more effectively target existing resources on strategies that are most likely to prevent unlawful immigration from occurring. In sum, curbing unlawful immigration requires:

- Better border management;
- a more effective method of deterring the employment of unauthorized workers;
- a consistent policy regarding eligibility for public benefits;
- a willingness and ability to remove those who have no right to remain in the country, with particular focus on criminal aliens;
- an enhanced capacity to respond to immigration emergencies;
- an effective strategy to reduce the pressures for migration in sending countries; and
- better data for making and implementing policy.

No one approach will be sufficient to address unlawful migration.

Let me touch on the highlights of this comprehensive strategy that the Commission will be recommending in its September report.

I. PREVENTING UNLAWFUL ENTRY AND FACILITATING LEGAL ENTRY ACROSS U.S. BORDERS

The Commission believes that significant progress has been made during the past year in identifying and remedying some of the weaknesses in U.S. border management. Nevertheless, we believe that far more can and should be done to meet what we consider to be the twin goals of border management: preventing illegal entries while facilitating legal ones.

Land Border

The Commission supports enforcement strategies aimed at prevention of illegal entry at the border rather than apprehension following illegal entry.

The Commission was favorably impressed with the pilot program in El Paso, Operation Hold the Line. Prevention holds many advantages: it is more cost-effective than apprehension and removal, it eliminates the cycle of voluntary return and re-entry that has characterized unlawful border crossings, and it reduces potentially violent confrontations between Border Patrol officers and those believed to be seeking illegal entry.

Prevention strategies require a combination of additional personnel, improved technology and communications, data systems that permit quick identification of repeat offenders, additional equipment including vehicles, and a political commitment to this approach. Prevention also requires a capacity to anticipate changes in smuggling patterns. The Commission recommends development of contingency plans to handle smuggling at new locations along the border as well as increased sea smuggling that may arise as land border controls are improved. The Commission also recommends formation of a mobile, rapid response team that can be deployed when new avenues of illegal entry are identified. The Commission supports use of unscalable physical barriers only as a last resort in border control, if they are needed to reduce violence at the border.

The Commission supports efforts to increase training for Border Patrol officers, improve procedures for adjudicating complaints of Border Patrol abuses, and provide redress or relief to those subjected to improper actions. And, recognizing the fundamental shift in Border Patrol policy that a prevention approach requires, the Commission recommends systematic evaluation of the effectiveness of the new border strategies adopted by INS.

The Commission recommends additional resources for inspections at land border ports of entry in order to facilitate legal entry.

Legal entry should be facilitated in order for the country to benefit from trade and tourism. The Commission also believes that an integral part of controlling illegal entry is facilitating legal entries. When Operation Hold the Line was instituted, it became apparent that a portion of those crossing the river illegally had or were eligible for legitimate Border Crossing Cards (BCC) but found it was slower and more difficult to cross through the port of entry. In particular, high priority should be given to easing traffic through inspection posts and expediting issuance of BCC's. The Commission is giving consideration to a user fee to be imposed on crossers of the U.S. border as a possible way to provide additional funds to facilitate land border management. Consideration is also being given to a fee for issuance of the BCC, now precluded by U.S.-Mexico treaty. Also, further steps need to be taken to better ensure that the BCC is not misused by legal crossers who are engaged in unauthorized employment. The Commission's recommendations regarding employer sanctions should help in this regard.

The Commission supports increased coordination between the governments of the U.S. and Mexico on border issues.

The Commission views favorably the discussions underway between the U.S. and Mexican federal governments and border state and local governments. These discussions provide forums to promote greater cooperation between the two governments in solving problems of mutual concern such as border violence, violations of Mexican exit laws and U.S. entry laws, movements of third country nationals through Mexico to the United States, smuggling of people and goods, and similar issues.

Airports

As with land borders, the Commission supports a combined facilitation and enforcement strategy that would prevent the entry of unauthorized aliens while facilitating legal admissions at U.S. airports.

The Commission supports the use of new technologies to expedite the inspections process and improve law enforcement. We also commend and urge continuance of the government-airline industry discussions and recommendations for preflight inspections and more efficient processing of travelers with Machine Readable Documents. The Commission supports efforts to devise programs that enhance the capacity of airline carriers to identify and refuse travel to aliens seeking to enter the U.S. on fraudulent documents. We encourage the INS and the airlines to continue the Carrier Consultant Program and other coordinated efforts to maintain complete, accurate and reliable Advance Passenger Information System (APIS) data and improved lookout data systems.

The Commission heard testimony from the airline industry on what they consider to be undue fines and penalties imposed for transport of unauthorized aliens. The Commission recommends development of a system for mitigation of penalties or fines for those carriers that cooperate with the INS and show actual reductions in the number of unauthorized aliens they carry. The Commission further believes that carriers should not be responsible for the actual physical custody of inadmissible air passengers.

Coordination of Border Management

The Commission urges careful monitoring of coordination among agencies with responsibility for border management.

In a June 1993 report, GAO outlined efficiency and other management problems with the INS-Customs dual inspection structure on primary inspection at land border stations. Among them: poor coordination, lack of updated cross-designation training, lack of joint performance studies, no coordinated approach for addressing staffing imbalances and traffic backups, a substantial interagency rivalry, and weakened operational accountability due to the dual structure. Even though the report focused on land border ports-of-entry, the same problems occur at air ports-of-entry as well.

More recently, the National Performance Review noted, in reference to previously voiced suggestions, that a reorganization of the agencies at this time was too extreme and the agencies should continue to work in the existing structure, with the assistance of present interagency work groups. In two years, the existing structure is to be re-evaluated. The Commission plans to monitor whether the coordination mechanisms recommended by the NPR help address the recurrent management problems experienced in land and airport immigration inspections and border control. If they do not make the needed improvements, the Commission will recommend further actions.

Anti-Smuggling Efforts

The Commission believes an effective prevention strategy requires enhanced capacities to combat organized smuggling for commercial gain.

The Clinton Administration introduced legislation in July 1993 that enhances penalties for smuggling or harboring aliens for commercial advantage or financial gain and includes organized smuggling under the provisions of RICO. The legislation also provides expanded authority for seizure and forfeiture of property related to smuggling activities and enhanced authority for wiretaps. The Commission supports the basic approach taken in this legislation, and we recommend, as well, enhancement of intelligence gathering and diplomatic pressures to prevent smuggling rings from operating.

II. DETERRING THE EMPLOYMENT OF UNAUTHORIZED ALIENS

Employment continues to be the principal magnet attracting illegal aliens to this country. As long as U.S. businesses benefit from the hiring of unauthorized workers, control of unlawful immigration will be impossible. The Commission believes that both employer sanctions and enhanced labor standards enforcement are essential components of a strategy to reduce the job magnet.

Verification of Employment Authorization

At the heart of many of the problems in current application of employer sanctions is the verification process used to determine work authorization. Widespread counterfeiting of documents that can be used for verification of identity and employment authorization has been reported since IRCA's implementation. It is also relatively easy to obtain genuine documents, such as birth certificates or drivers licenses, by fraudulent means. Moreover, confusion about the verification procedures and wariness about the validity of the documents has led to great potential for discrimination against foreign-looking and sounding citizens and legal immigrants.

The Commission recommends development and implementation of a simpler, more fraud-resistant system for verifying authorization to work.

In examining the options for improving verification, the Commission believes that the most promising option for more secure, non-discriminatory verification is a computerized registry, using data provided by the Social Security Administration and the Immigration and Naturalization Service.

The key to this process is the social security number. All workers must already provide a social security number upon taking employment. The verification process that the Commission is looking at adds a step to this existing requirement: checking

that the social security number is valid and has been issued to someone authorized to work in the United States.

This verification system will reduce the time, resources, and paperwork spent by employers in abiding by the requirements of immigration law. It should also reduce any potential for discrimination. Employers would no longer have any reason to ask if a worker is a citizen or an immigrant—the only relevant question is: what is your social security number?

The Commission further recommends that the President immediately initiate a program to implement this new verification process in the five states with the highest levels of immigration. The President already has the authority to do this in the Immigration and Nationality Act. The initiative should incorporate a number of features.

First, employers will need a way to determine that the individual about to be hired is actually the person with that social security number. We have received conflicting testimony about the best way to check the applicant's identity. We have heard proposals for a more secure social security card, counterfeit-resistant drivers license, and telephone verification system. The pilot program presents an opportunity to determine what is the most cost-effective, fraud-resistant and non-discriminating method.

Second, the pilot and any resulting legislation to establish the system on a permanent basis must provide protection against use of the verification process for purposes other than those specified in law. The Commission shares the civil liberties concerns of many in this country that the process for verifying employment authorization not become the basis for a national identity system. We believe the same system could be used, without damage to civil liberties, for verifying eligibility to receive public benefits. However, no one should be required to carry a card, should one be used, or present it for routine identification purposes. There must also be significant penalties for inappropriate demands for the identification.

Third, the verification system should protect the privacy of the information included in the registry. The Commission is aware of the proliferation of databases, and reported abuses of privacy by both government and private agencies. The verification process should contain explicit provisions for protecting privacy and the computer system should incorporate appropriate safeguards.

A final word on the verification process—to be effective, the computerized registry will draw on data from the INS and the Social Security Administration. A prime prerequisite of this system is the integrity of those data systems. Both agencies will need to improve their own records, speed up the entry of new data into their own systems and transfer of the necessary information to the jointly maintained registry, and ensure that the information remains accurate and accessible. INS has already requested funding to undertake these improvements in its record-keeping. If Congress is serious about curbing unlawful immigration, it is essential that the funds be provided to carry out this initiative. The Commission is working with SSA and INS to get cost estimates for instituting the proposed registry and will report its findings in September.

Anti-Discrimination Efforts

The Commission believes that adopting a more secure, simpler verification process for determining work authorization—and, in particular, one where employers will no longer have to make any determination as to immigration status—is the best defense against discrimination.

The current verification process creates discriminatory behavior among employers even in cases where no discrimination is intended or in which there is an explicit effort to avoid illegal conduct. In particular, employers ask for different or additional documentation from those who appear to be foreign-looking or sounding. The abuse of documentation requirements is harmful in and of itself and also masks more egregious discriminatory actions.

The Commission encourages the Office of Special Counsel for Immigration-Related Unfair Employment Practices to undertake targeted investigations to document discriminatory actions and provide relief for the citizens and legal immigrants who find themselves victims of discrimination based on national origins or citizenship status.

We believe there is a public responsibility to provide effective redress for those who experience discrimination resulting from immigration law. During the transition period to a new verification system, in particular, OSC should be proactive in identifying discriminatory practices, finding ways to prevent their occurrences to the extent possible, and seeking penalties against those employers who do discriminate. In addition, the Commission recommends that additional studies be undertaken to

determine the effectiveness of the new verification process in reducing discriminatory behavior.

Enforcement of Employer Sanctions and Labor Standards

The Commission believes that reduction in illegal immigration requires vigorous and complementary enforcement of employer sanctions and labor standards.

Neither employer sanctions nor labor standards enforcement has received sufficient priority. Both have suffered loss of resources during the past few years. Even within existing budget, however, a better targeting of resources could improve enforcement.

The Commission recommends that INS target its employer sanctions resources on the investigation and prosecution of likely violators of the provisions against knowing hire of illegal aliens and seek the full use of current penalties against them. When the new verification process takes hold, INS should also eliminate investigation of paperwork violations in order to concentrate more effectively on businesses that knowingly hire unauthorized aliens or fail to verify work authorization.

The Commission supports an increase in labor standards enforcement efforts in industries with large numbers of illegal aliens. Deterring unlawful immigration is a key ingredient in protecting U.S. workers. The presence of large numbers of unauthorized aliens in certain industries renders enforcement of labor standards, such as wage and hour and child labor provisions, all the more difficult because unauthorized workers are afraid to demand better working conditions or report infractions, and businesses can bypass the hiring of workers who would be more cognizant of their rights.

A Memorandum of Understanding was signed last September between the Labor Department and the INS setting out a division of responsibility for investigation of employer sanctions violations. The Commission urges the Attorney General and the Secretary of Labor to review the current division of responsibilities between the Justice and Labor Departments in the enforcement of employer sanctions and labor standards and make needed changes if the new MOU does not provide the coordination needed.

The Commission also supports establishment of national and local taskforces to promote greater coordination in enforcement of labor standards, employer sanctions and anti-discrimination provisions. The Commission further recommends that educational efforts by the Immigration and Naturalization Service, the Office of Special Counsel, and the Department of Labor regarding employer sanctions, anti-discrimination provisions, and labor standards be coordinated and continuing, sending a single message about the rights and responsibilities of workers and employers.

III. MAKING BENEFITS POLICY CONSISTENT WITH THE OBJECTIVES OF IMMIGRATION POLICY

Eligibility for Benefits

Immigrant eligibility for public benefits has become a major focus of debate in the United States. The Commission believes that decisions about eligibility should support the objectives of our immigration policy: to deter unlawful immigration and to support lawful immigration and eventual citizenship. Using these objectives as a measure of benefit policy, we have come to the following conclusions:

Illegal aliens should not be eligible for any services or assistance except those made available on an emergency basis or for similar compelling reasons.

Benefits policies should send the same message as immigration policies: Aliens should not enter the U.S. unlawfully and, if they do, should not receive public-funded aid except in very unusual circumstances: where there is emergent need for specific assistance; where there is a public health, safety or welfare interest (such as immunizations, child nutrition programs and school lunch programs); and where their eligibility is constitutionally protected. The verification system recommended by the Commission should be used to determine eligibility for public benefits as well as work authorization.

Legal permanent residents should continue to be eligible for needs-tested assistance programs.

The U.S. admits legal immigrants with the expectation that they will reside permanently in the United States as productive residents. U.S. immigration law bars the entry of those who are likely to be a public charge. It also contains provisions for the deportation of individuals who become public charges within five years unless they require aid for reasons that developed after entry, such as an unexpected illness or injuries sustained due to a serious accident. The Commission believes that

these provisions should be made more effective. At the same time, we also recognize that circumstances may arise after entry which create a pressing need for public help. The Commission is not prepared to lift the safety net out from under individuals who, we hope, will or have become integral parts of our civic culture. We recommend against any broad, categorical denial of such protection to legal immigrants on the basis of their alienage.

However, the Commission strongly endorses initiatives to ensure that sponsors are financially responsible for the immigrants they bring to this country. In particular, the Commission believes that the Affidavits of Support signed by sponsors should be legally enforceable.

Mechanisms should be developed that would permit public aid offices to recover support from sponsors who abandon their financial responsibility. Should these initiatives prove successful, deeming provisions may no longer be needed since sponsors will be required to provide actual support or repay the costs of assistance provided to those they sponsor.

The Commission recommends that the eligibility of aliens for public benefits and work authorization be defined in the Immigration and Nationality Act. The Commission would further require that every alien who is permitted to remain in the country on a temporary or permanent basis through legislation, court order, or administrative order be classified as to his or her eligibility for benefits and authorization to work.

The Commission believes that benefit eligibility determinations are complicated by the myriad statuses now afforded to individuals within this country. While the rights of lawful permanent residents, refugees and asylees have been spelled out in immigration and benefit laws, the Executive Branch, Congress and the courts have created various other statuses that may or may not denote benefit eligibility. The INA should specify categories of aliens by their work and benefit eligibility, such as: those eligible for work and needs-tested benefits; those eligible for work and only those benefits that accrue from employment; and those eligible for neither. Every alien should then be assigned to one of these categories.

Impact Aid

The Commission recommends a short-term authorization of financial aid to offset at least a portion of certain identifiable costs to states and localities resulting from unlawful immigration.

Difficulties in enforcing immigration law have created fiscal impacts that would not have occurred had enforcement strategies been more effective. The ineffective enforcement has been due, in some measure, to a lack of political will on the part of decision-makers, including officials in states now heavily affected by illegal immigration.

The Commission believes that the federal government has a responsibility to help mitigate the fiscal costs of unlawful immigration, particularly through renewed efforts to reduce unlawful immigration. We recommend a short-term authorization of financial aid to states until such time as the enforcement measures take effect, and contingent on the following conditions: better data and methods to measure the net fiscal impact of illegal immigration and reimbursement of only identifiable costs; a mechanism designed to ensure that governments do not expect or become dependent on this interim measure as a continuing source of funding; and a requirement that state and local governments cooperate with Federal authorities to enforce the immigration laws of the United States.

IV. FACILITATING IDENTIFICATION AND DEPORTATION OF CRIMINAL ALIENS

An effective procedure for prompt and permanent removal of aliens ordered deported is an essential part of a credible deterrence policy. If people unauthorized to enter believe that they can remain indefinitely once having reached the interior of the nation, they may be more likely to come. The Commission is reviewing the full range of issues raised by U.S. exclusion and deportation procedures and plans to issue a separate report on this subject in fiscal year 1995. For the present, we are limiting our specific recommendations to the removal of criminal aliens who represent the most serious threat to public safety.

The top priority of interior enforcement strategies should be the removal of deportable criminal aliens from the U.S. in such a way that the potential for their return to the U.S. will be minimized.

The Commission supports the Institutional Hearing Process (IHP) as an effective mechanism to ensure that deportable criminal aliens are identified and receive final orders of deportation while still serving their sentences. The IHP is cost-effective in that criminal aliens can be deported directly from state and federal prisons, alleviating INS' need to detain them until deportation proceedings take place. The Commission commends the negotiations taking place between federal immigration authorities and state correctional departments to enhance the efficiency of the IHP. Resources should be increased for investigations to identify criminal aliens and for the hearing process itself.

The Commission is concerned, however, about the ease with which deported criminal aliens can effect a reentry into the United States, particularly those who are returned to the Mexican border communities. In the case of Mexico, deported criminal aliens who have served their sentences should be repatriated to the interior of the country, rather than simply to the border, to lessen the likelihood of their return. The Commission also supports the use of bilateral treaties encouraging the transfer of criminal aliens to serve sentences in their own countries; the State Department should monitor cases to be certain that sentences are served.

The Commission recommends that the federal government assume responsibility of the costs of incarcerating illegal aliens through reimbursement, by transferring the illegal aliens to federal facilities, and/or by negotiating with foreign governments to accept and incarcerate their nationals who are criminal illegal aliens.

Enhanced federal responsibility in this area will serve two purposes: to help mitigate the costs incurred by states and localities resulting from unlawful immigration; and to help facilitate the prompt deportation of illegal aliens who have committed criminal acts in the United States.

V. INCREASING CAPACITY TO RESPOND MORE EFFECTIVELY TO EMERGENCY MOVEMENTS OF PEOPLE

The Commission believes that effective immigration policy requires the capacity to respond effectively and humanely to immigration emergencies, a capacity not now in place.

Since 1980, the United States has received hundreds of thousands of people who left their own countries or entered this country under emergency circumstances. The exodus of Haitians is only the most recent example. Emergencies can overwhelm resources and create massive problems that remain long after the emergency is over. The Commission held an expert consultation in Miami in which we heard many concerns about U.S. policy. Since then, a number of new policy directives have been issued. New asylum regulations, the establishment of safe havens in the region, new regulations for the Immigration Emergency Fund are three important developments in this area. The Commission plans to assess these efforts as well as other policies required to enhance U.S. capabilities in responding to immigration emergencies. We will issue a separate report during fiscal year 1995 which will include discussion of contingency planning, refugee processing, asylum procedures, temporary protected status, aid to communities experiencing emergency arrivals of aliens, and other related issues.

VI. ADDRESSING UNAUTHORIZED MIGRATION AT THE SOURCE

The Commission firmly believes that greater attention must be paid to the causes of migration in countries of origin as part of a strategy to deter unauthorized migration to the U.S.

Much as we support an enhanced enforcement effort by the United States, the Commission believes that unauthorized immigration will not be curbed by unilateral U.S. action alone. Effective deterrence of unlawful immigration must get to the root causes of these movements. Getting to these causes will require cooperation with other countries. While the U.S. clearly retains the sovereign right to protect our borders, migration is by definition an international phenomenon and international actions are needed to address it.

The Commission recommends that the United States give priority in its foreign policy and international economic policy towards long-term reduction in the causes of unauthorized migration to the U.S. The Commission also recommends adoption of near-term strategies targeted at reducing migration pressures in selected communities with high emigration rates.

In addition to these efforts, the Commission supports an enhancement of intelligence gathering capacities to improve early warning of unauthorized migration. While the root causes of migration are readily discernible, it is harder to predict

what specific factors will precipitate actual movements into the United States. Particularly with regard to immigration emergencies, intelligence is needed as well to assess the potential size and duration of the emergency, the mode of entry, the location to which migrants will come, and other characteristics of the emergency.

The Commission further recommends a strengthening of multilateral capacities to address migration, particularly within the Western Hemisphere. The development of regional institutions where mass migration issues could be discussed and cooperative strategies undertaken, as well as the strengthening of the United Nations and the International Organization for Migration to address these issues, would provide an opportunity to better anticipate and respond to unauthorized immigration.

VII. IMPROVING DATA

Improved policy development and implementation require better data. Throughout the Commission's own inquiry, we have found it difficult to assess the effects of immigration policy and immigration itself because of inadequacies in the data. The Commission is working with the InterAgency Working Group on Immigration Statistics to develop specific recommendations to improve data collection. These recommendations will be detailed in our September report.

LOOKING BEYOND 1994

As the members of the Committee know, the Commission is at a mid-point in its work. Our longer-term agenda is to assess and make recommendations about the implementation and impact of the Immigration Act of 1990. The Commission has already begun a systematic fact-finding process to measure the economic, social, demographic, and foreign policy effects of immigration. We considered whether to make recommendations in our September 1994 report about the legal immigration system, including the numbers and criteria for admission. We have decided not to do so at this time. The data needed to assess the full ramifications of current legal immigration policy are not available. The Immigration Act of 1990 was not implemented until 1992, meaning that we have only two years worth of data and little experience with its impact to use in determining its effects. An important new aspect of the law—the Diversity Program—has not even at this time been implemented.

The Commission will issue a progress report on legal immigration as part of its September report to Congress. We will continue to examine its effects during 1995. Should the Commission determine that any changes in legal immigration policy are in order, we will report our recommendations expeditiously.

I would be pleased to answer any questions you may have.

Senator KENNEDY. Thank you very much, Chairperson Barbara Jordan.

Why don't we follow, at least in this round, an 8-minute questioning period.

Obviously, every one of these areas that you have highlighted is of enormous consequence. I appreciate your sharing with us the approach that the Commission is taking. We will look forward, obviously, to the continued refinement of the positions and the recommendations.

I think one of the areas that we have been wrestling around over a long period of time is the whole question about the identity card, what the procedures are for the checking of an individual, whether under the current systems the level of discrimination that takes place. This is something that we are enormously interested in and one of the continuing reasons for the Commission along with many others. We find that there is no hesitancy to drop additional kinds of problems on your lap to try and give us some counsel and some thoughtful consideration, because of the range of experience of the Commission itself.

Could you give us some greater idea about where you are coming out about the value of a work card or the identification and what

your own kind of thinking, if any, is as to whether this would mean the threat of additional types of potential discrimination or less?

Have you reached any kinds of conclusions on that? I think there is an evolving process in the thinking of the Congress, and obviously you have a group of men and women on that Commission that are really very thoughtful people on the range of different immigration issues. I know they have written and thought about these kinds of questions.

Were you going to be prepared to make a recommendation on that issue?

Ms. JORDAN. Senator, the idea of the pilot program is presented because we have not reached a conclusion about the best way to access this computerized registry. We would like, in a pilot program, trying five States heavily impacted by immigration, let them test Social Security number, Social Security card, driver's license with photograph, telephone I.D. Those things need to be tested out, Senator, before we can say, this is really the best way to access such a system.

Where we have our strong unanimity is in the need for a data base that is credible and that can be accessed, which would yield us the kind of information that we need.

If some of the other Commissioners at the table would like to respond to that question further, I certainly pause for the moment.

Senator KENNEDY. I would like to hear others respond, if you could give us some timeframe, just generally, when you think that you would have sufficient information available where you would be able to make either a recommendation or you would caution us or urge us to take action. This is obviously an area of enormous importance. Members have talked about it for a considerable time, to offer different proposals on it. I think we are looking forward to the recommendations of the Commission.

When do you think that you would at least be able to give us some recommendations with perhaps the advantages and potential disadvantages of different courses of action?

Ms. JORDAN. I would ask our Executive Director, Susan Martin, to give us that timeframe.

Ms. MARTIN. Certainly in the September report to Congress, the Commission will be outlining both the recommendation that it has already formulated in terms of this computerized registry to test work authorization and the types of pilot programs that the Commission would recommend be immediately implemented, not down the road but very quickly, in order to be able to use that computerized registry as the principal means of verifying work authorization.

Then as the means of accessing it through different documents are tested, that will give the information as to what model works best on a national level.

So we would hope that the recommendations of the Commission will be fleshed out in the September report, and we would be encouraging the President to immediately implement the pilot program so that there won't be a waiting period between then and the time that happens.

Senator KENNEDY. Once the pilot programs are put in, what is your own sense about the time that it would take?

Ms. MARTIN. The legislative authority for the pilot programs talk about a 3-year period, and that fits perfectly in terms of the Commission work plan, because what we would hope to be able to do is to be working during these next 3 years in assessing the pilots so when the Commission reports back to Congress by the end of 1997, we could include the Commission's recommendations as to which of these pilots seem to be making sense as a model for national policy.

But during the next 3 years, we would see major impacts of this new system taking place in the five States with the highest levels of illegal immigration as well as some other States to see how it would work in less affected areas.

So we would hope to see something almost immediately, as soon as the data base could be put together, which may take some time, but we would want it to start right away in those five States and a recommendation for national policy by the end of the 3-year period.

Senator KENNEDY. I am not sure whether the political process and pressures are going to be as patient in waiting for these kinds of outcomes, but I think it is very important that we have at least the professional guidance and thoughtful recommendations in these areas.

Mr. FUCHS. Mr. Chairman?

Senator KENNEDY. Yes?

Mr. FUCHS. This is really a speed-up recommendation. If you go back to Senator Paul Douglas, he first proposed employer sanctions in 1952, and you carry it on up through what you all did in 1986, which authorized the President to move forward and develop the system, but it was never done under three Presidents.

So what we are saying is rather than recommend something that needs new legislation that may not be really thought through and worked out so carefully, let us get cracking under the authority that exists already. Let us move it quickly to be responsive exactly to the comment that you just made.

There is a sense of urgency, but you don't want to start a system when you don't have really enough knowledge for the country as a whole, when you don't have enough knowledge as to the advantages of the different modalities for accessing the national registry. Hence, the pilot program, which the President is already authorized to do.

Senator KENNEDY. This is the second question. Over the years, we have heard many complaints about the accuracy of the INS data base.

Ms. JORDAN. Yes.

Senator KENNEDY. Isn't it problematic to rely on a faulty data base for verification of employment authorization?

Ms. JORDAN. I do not think it is. Senator, the INS and Social Security—

Senator KENNEDY. Excuse me, you do not think—

Ms. JORDAN. That it is problematical to think that we could come up with a registry that is going to have the kind of verifiable outcome that we are looking for.

There are data bases already in place, but they are yielding inaccuracies because of insufficient and inaccurate input. I believe if we

are serious about getting a verifiable system, we need to put in place the resources to develop the kind of data base which is going to yield good information.

Senator KENNEDY. My time is up.

Senator Simpson?

**STATEMENT OF HON. ALAN K. SIMPSON, A U.S. SENATOR
FROM THE STATE OF WYOMING**

Senator SIMPSON. Mr. Chairman, I thank you and welcome the panel, this panel and the next.

I want to congratulate you, Madam Chairwoman, as well as other Commissioners and your staff and Susan Martin.

Madam Chairwoman, you know of the respect and admiration I have for you, and I commend you for your unselfish work once again in doing something that is assisting us with something of such a serious nature as illegal immigration and also where we go with legal immigration.

Some of the other Commissioners, Larry Fuchs, a mentor and extraordinary resource when I was a member of the Select Commission, and Michael Teitelbaum, a remarkable communicator, admirable communicator, reducing complex issues to understandable concepts. Robert Hill, I do not know as well. Susan Martin is a very steady, thoughtful person. Doris Meissner, of course, I worked with for many years, and Alice Rivlin.

So we are very interested in what you are sharing with us on this first interim report. I know enough, as my colleague from Massachusetts knows, that reaching unanimous recommendations in this area is very, very difficult, and you have achieved that in this report, or what is coming to us. That is extraordinary in itself.

I agree with all of the recommendations. I have seen many of them before. I have worked with many of them. I have tried to incorporate them into things I have been trying to do and am doing now.

I trust that the Commission's endorsement of many of the things that I have addressed in legislation will stimulate and encourage and energize the Chairman to swiftly process various items of legislation that roost at his desk, so we might take some of those recommendations.

As Ted and I have spoken, and Senator Feinstein, Senator Simon, I see, has joined us, this is all perception we deal with. We don't do things logically, steadily. We do things out of political pressure and the energy that comes from the citizens. Something is going to happen this year. Even if it is tacked on the bloated cow bill, somebody is going to stick an immigration bill of major import on a bill in the U.S. Senate. That can't happen in the House, but it will happen here.

We need to be ready, because they often refer to you and your Commission. Let us wait until Barbara Jordan finishes her work, and Larry Fuchs and Michael and all the rest. That is fine, but the mission of yours was to judge the worth of the act, which was legal immigration. So that is a shunt. That is a marvelous gimmick. Wait for Barbara Jordan and the Commission to tell us what to do.

That was not the mission of your Commission. The Commission was to speak, as we set up in the law so clearly, was to give us

the information that we needed—the function of the Commission is to review and evaluate the impact of this act and the amendments made by this act, and not later than September 30 and so on, and then setting forth the issues of legal immigration, which we will await with great interest.

I appreciate very much hearing that you are going to present us with some information on legal immigration, because that is really the central mission here.

This is more difficult politically, of course, to deal with legal immigration, and we all agree with that. But review and evaluation of our legal immigration policy, what do we do with the substantial increase in numbers, by changes in allocation of numbers? That is an important part of your mandate.

So I think you have answered my question which I was about to ask, but I won't, earnestly recommending that you submit an interim report which addresses legal immigration and makes policy recommendations on this equally important part of our immigration program. That is to take place, then, is that not correct?

Ms. JORDAN. That is correct, Senator. We understand credible immigration policy has two prongs and one is to reduce and absolutely try to prevent unlawful immigrants, but the other prong is to enhance legal immigration. We understand that that is a serious part of our mission and we have already begun to do the kinds of studies and consultations which will help us to have a good solid set of recommendations to present to you on that matter.

Senator SIMPSON. That will be very helpful, and we will look at it with great interest.

Just quickly, and I see there is a vote, I believe, and I know my other colleagues and I will return, but since we were talking about the identifier, and we have been through all that. I don't think I can stand any more about that one. We talked about national I.D., tattoos, one time some worthy brought up. I mean, I have had it all.

That is not what we are talking about. I think you have come to where all thoughtful people come. We have to do something about systems that are being gimmicked. You said it so well, that the employer is not responsible for the validity, so the documents get gimmicked, and if the employer asks for anything more, he is discriminating. That is almost as nuts as the Texas proviso, which used to mean it was legal to work but illegal to hire, or whatever it was. [Laughter.]

I am gratified to see that, and that we develop a simpler, more fraud-resistant system. That's what you're suggesting to us, pilot programs, immediacy, getting started. The Social Security Administration recommended some things like that. In the 1990 act, I proposed a pilot program. That got ripped up. I felt it was a means of avoiding the national I.D. card issue by making the verification system more secure. But the unreliability of the underlying documents is going to be the most serious problem.

Ms. JORDAN. I know.

Senator SIMPSON. What can the Federal Government do about the fact that States are still issuing birth certificates by mail, death certificates by mail. What is the feasibility or desirability of establishing a national data base that could be consulted to verify

birth certificates and similar documents throughout the United States?

Ms. JORDAN. Senator, we don't know the conclusion to that question that you posed, but we do want to find the answer. Everyone has a Social Security number. Can that number be the identifier? You don't have to put it on a card. Put it in your brain. But the number, if that number goes into the registry and it shows up bogus, that is the answer.

Can we then enhance the credibility and integrity of the Social Security number? Maybe, maybe not, but we need to find out.

Senator SIMPSON. I've shown this before, but some worthy picked up a card for me. This is the California I.D. card, with my name and face, vital statistics, went down on the street in Los Angeles, picked it up, and here's a new Social Security card for me. I don't know whose number this is. Two of us are in the same stream under this card. This was \$100 for Al Simpson. I could use this to work. I could even use it to vote in certain areas. That's absurd, and we have to deal with that in an honest way.

Ms. JORDAN. Senator, I would like for our Director, Susan Martin, to give you an addendum to that response.

Ms. MARTIN. The Commission has been looking at the various reports that have been issued over the last decade with regard to birth certificate fraud and will be making some very specific recommendations on that.

One of the reasons, though, that the Commission did come to the conclusion that you could immediately build a system around a Social Security number in the computerized data base is that Social Security has—there is now a requirement that children receive a Social Security number by age 2, and Social Security numbers in most States are being issued immediately at birth.

The Social Security Administration also has been doing face-to-face interviews with anyone over the age of 18 who requests a Social Security number in order to be able to determine why it is so late that they are requesting it. So there has been some tightening of the security of issuing a valid Social Security number.

The concern of the Commission was that there was no way to verify the number, as you point out, in terms of the fraudulent documents. They were trying to deal with that particular gap in terms of the recommendations.

Senator SIMPSON. I thank the Chairwoman. I was fascinated in the course of debate in the last year or so when the President held up a card in front of Congress and the Nation and said, here's a health care card and everybody's going to carry one of those and have access to the system, and I never saw a single editorial, never saw a single comment, just babble into the vapors, while every time we are trying to do something to help the States that are terribly impacted we were getting this national I.D. emotional hoorah. It is very interesting work, I will assure you.

Thank you very much.

Senator KENNEDY. As you know, we actually had those provisions in the Senate bill that passed, and then there was misinterpretation of those provisions over in the House and we had to strike it.

Senator Simon?

Senator SIMON. I think since we have a vote on, I am going to hold off.

Welcome to the members of the Commission, particularly my former colleague, Barbara Jordan. I am very proud to say I served in the House with Barbara Jordan.

Ms. JORDAN. Thank you, Senator.

Senator KENNEDY. We will recess briefly. When Senator Feinstein returns, I will ask her to start off on the questioning. Thank you.

[Recess.]

Senator KENNEDY. Senator Feinstein?

Senator FEINSTEIN. Thank you very much.

Senator KENNEDY. We are going to try some 8-minute rounds and see where we go.

STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

Madam Chairwoman, I am very pleased to have heard your words and the report of the Commission. As a Californian, I want to thank you for what is, I think, a very pragmatic and important first step.

I must say I find myself in agreement with virtually everything that the Commission has put forward. I also find myself in agreement with Senator Simpson's sentiments that we need to move forward and encapsulate this either in executive policy or in law.

As you know, I have a bill which does many of these things, and I think unless we can get some movement, as Senator Simpson said, some of us are going to begin to just attach our bills as amendments on pieces of legislation on the floor.

I would like to begin by asking you a couple of questions on border enforcement.

Ms. JORDAN. Yes.

Senator FEINSTEIN. I, too, believe that we can, in fact, enforce our borders. In the last 2 years, fiscal year 1994 and fiscal year 1995, border enforcement by appropriation has been increased about 40 percent. In 1994, 600 additional Border Patrol. In 1995, 700 plus 240 that are going to be reassigned for a total of 940 additional Border Patrol. So that will comprise about a 39-percent increase.

Has your Commission looked at what is an optimum number for close to full enforcement of the border for the next—my own view is that we should continue with the 700 for an additional 2-year period to bring additional Border Patrol in of about 2,100, including this year's 700. I am very curious as to what your view might be.

Ms. JORDAN. Senator Feinstein, we have not addressed the question of what is the optimum number of Border Patrol. What I do know is that no matter how many people you put there on the Border Patrol, they need the resources which would help them to do their job.

If you are going to simply put more bodies there without the requisite kinds of infrastructure support, that will not be helpful. What we have had is a rather weak commitment in terms of the

resources that we provide for the Border Patrol to do their job, and it is a job which requires adequate resources.

I don't know whether the Director would like to add anything.

Ms. MARTIN. In addition to the emphasis on the infrastructure and the resources, the Commission is recommending the formation of a mobile rapid response team, partly because of the sense that it will take time to build up the Border Patrol capacity along the border that is needed.

Also, the smuggling routes change. They shift. Even if we had Border Patrol officers in much more sizeable numbers, they need to be more mobile. The answer isn't necessarily to have one Border Patrol officer per every 100 feet. The idea is to be able to identify the smuggling routes very, very quickly and move the Border Patrol into those new smuggling routes and then hopefully at some point be able to anticipate where the smugglers are coming in so they can't open new routes, because the Border Patrol will already be there.

Senator FEINSTEIN. Thank you very much.

I am also in concurrence, as you know, with your thinking on a user fee to help fund some of this as well as to fund your computerized data project, your data base. I support the impact aid. I support the pilot project, which I would like to see move ahead right away.

I notice in the denial of cash Federal welfare benefits to people here unlawfully, would that include AFDC to children born of an unlawful immigrant?

Ms. JORDAN. It would not include the children who are born here, because the 14th amendment still makes that child a citizen, because the child was born on the soil of the United States. So the fact that the parent is illegal does not mean that you can deprive the child on the basis of that illegality.

Senator FEINSTEIN. Right; has the Commission considered that issue of citizenship, because there are people that believe—I don't happen to be one of them—but believe that an individual born here should not automatically receive citizenship. I am curious as to whether you have grappled with that difficult issue.

Ms. JORDAN. Senator Feinstein, the Commission has not grappled with that issue, but I feel so strongly that the 14th amendment is inviolate, I almost hope we don't deal with that issue, because the history of citizenship when you are born here is one of blood and sweat and tears and that is what makes it such a staple of our country. I don't know whether another Commissioner would like to comment, because that is more a personal visceral kind of a view of mine.

Mr. FUCHS. No one on our Commission has proposed tampering with the equal protection clause of the 14th amendment with the citizenship birthright, and if they did, I would join our chairman in vigorously opposing such an idea.

Senator FEINSTEIN. Thank you. I appreciate that.

Have you looked at the issue of educating illegal immigrants?

Ms. JORDAN. We have looked at that issue, and as you know, we do have some court cases which are somewhat definitive in terms of what we may or may not do by reason of education.

Bob, would you like to make any further comment about that?

Mr. HILL. Yes; we have looked very carefully at what is a very difficult issue and we have concluded that as long as the court has interpreted the Constitution to require an education be provided to children in the United States, we will stand four-square behind that.

Senator FEINSTEIN. Thank you. I appreciate that very much. Is my time up?

Senator KENNEDY. No, you have time for a few more questions.

Senator FEINSTEIN. Otherwise, I believe very much that your recommendations are sound. I would like to frankly see this body move forward and encapsulate them, as I said, so that we can fully enforce our border, bilingual Border Patrol, well-trained, infrastructure, lighting, equipment, that we can move on with the computerized data base, do the 3-year pilot, do it fast. I think the impact aid is extraordinarily important.

I think also on the border, you are right. I know on the San Diego border, there are 24 gates. Sometimes only half of them are staffed, and so legal commerce is delayed, lines are long, tempers fray. You can have commuter books, just as we do over many bridges, to be able to bring people back and forth as rapidly, legally, as possible, and at the same time produce funding to support it through a user fee.

So I am hopeful that some of these ideas will gain currency as we move along in these hearings. I think I will yield now and look forward to my next round.

Ms. JORDAN. Thank you, Senator.

Mr. FUCHS. Mr. Chairman?

Senator KENNEDY. Yes?

Mr. FUCHS. On impact aid, I think a word of just caution. I heard you say twice that you are very happy about our recommendation on impact aid. What we recommended was that there is a principle here, as Chairperson Barbara Jordan said, a principle of federalism. But we want to be very careful that except in the area of incarceration of prisoners, that we get reliable data, because we don't believe it exists. We also believe that those who ask for money have to really justify with very good, sound data the requests that they make. In our judgment, at the present time, they are not capable of doing that.

Senator FEINSTEIN. One of the things that I have asked, sir, is that INS work with the State Department of Corrections rapidly, particularly in my State, because the State claims a verified total of over 13,000 illegal immigrants in State prison and in 4,000 potential holds, to be able to get that data verified so that we know.

Mr. FUCHS. In that area, you can come close, but in Medicaid and in education, you have to be very skeptical of the people who have their hands out.

Senator FEINSTEIN. Yes, I understand that, and I thank you for those comments.

Mr. TEITELBAUM. Senator, may I add one comment to that, if I may?

Senator FEINSTEIN. Certainly.

Mr. TEITELBAUM. There is a further condition that was unanimously supported by the Commission for any impact aid and it is described in our chairperson's testimony, but I think it should be

highlighted, and that is a requirement for cooperation by State and local governments with Federal authorities to enforce the immigration laws of the United States.

I don't think the Commission would support the notion of impact aid for States and local governments that declined to cooperate in enforcement of such laws.

Senator FEINSTEIN. Nor would I, sir, so I agree with you.

Thank you, Mr. Chairman.

Senator KENNEDY. Just on that, Senator Simon, have you reviewed Mayor Guiliani's concerns about those issues and some of the other mayors of major urban areas, talking about what they thought was possible in terms of cooperation and what they thought was going to be counterproductive?

We adopted yesterday ESEA programs to follow that basic concept. They have been included, actually. But I am interested in some of the mayors that have written to us and their concerns. I know you have a thousand things to do, but it would be very, very helpful. The Senate has gone on record overwhelmingly along those lines, but there have been important cautions that have been raised.

I think we are going to probably be visiting and revisiting that issue, to try and do it in ways that are going to get the cooperation but also, as I understand it, be able to deal with some of the issues on violence and gangs and drug problems and the rest. We are looking for balance, informed and sensible recommendations.

Senator Simon?

STATEMENT OF HON. PAUL SIMON, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator SIMON. Thank you, Mr. Chairman, and I thank the Commission for your work.

First of all, Professor Fuchs, I was interested in a little side comment you made that has special meaning to me, and that is that Senator Paul Douglas favored employer sanctions. That is significant because outside of Presidents Kennedy and Johnson and Martin Luther King, no one was more responsible for the civil rights laws that we have today than Paul Douglas, yet he favored employer sanctions.

On impact aid, your statement, Madam Chairperson, is that the Federal Government should help mitigate the fiscal costs. Do you have any feel, because sometimes I read statements by people saying illegal aliens, in fact, provide an economic plus to a State or locality or the Nation rather than a minus.

What conclusions, if any, have you come to in terms of the validity of any of these claims?

Ms. JORDAN. Senator, one thing that we need is better data so that we can answer you confidently about the validity of some of these claims the States are making. I have never experienced so much weak data on any subject as I have since I got into this question of immigration. People can come forward with figures, mega-figures, astronomical figures, and then you find out that there is no credible rationale to support the figures.

You would think that people who parade themselves as university professors and experts, present company certainly excepted

[laughter], would be able to give you verifiable data, but they don't, and they tout these reports out and you find subsequently that you really are not relying on anything that has any substance. That should not occur, and there is no reason for that to occur.

I understand that your next panel, in which you will have the Budget Director, who is new on board but finally where she ought to be, is going to give a good accounting—that is just a little editorial aside—[laughter] that she is going to give an accounting of finding and getting hard, good data.

In my State of Texas, as you know, we are engaged in a very volatile Governor's race between a Bush, Junior, and the current Governor of Texas, and immigration is becoming an issue and then the numbers start to fly. What I want to say is, don't say anything until you know what the truth is. That is a very hard proposition to get across.

So I would like to be able to answer your question with some definitiveness, but I am unable to do so. But if we do the job and if the data gets found and we get it, you will be able to look at the report of the Commission on Immigration Reform and ask that question about fiscal impact and get a response which you know has some rationale for its portrayal.

Senator SIMON. I would be interested in the response of any of the other members of the Commission, but long ago I learned to trust Barbara Jordan's intuition. Maybe you have answered my question by saying you really don't want to respond. Intuitively, what is your feel in response to my question?

Ms. JORDAN. About the numbers that are being used?

Senator SIMON. Yes, and the cost—

Ms. JORDAN. And immigrants and whether they are a plus or a minus?

Senator SIMON. Yes.

Ms. JORDAN. The point is that yes, we do get benefits from immigrants in this country, and some of them are not here legally, but we still get benefits.

Intuitively, in terms of public benefits that we can see, I know that the benefits are there. I would like to be able to give you a credible figure but you have said you want to know intuitively. Intuitively, I think we get public benefits from the presence of immigrants in this country, which benefit is equivalent to any cost which they engender by being here. I know that it is a mixed bag when the immigrants come. They cost us, but they also contribute to us. I believe that contribution is at least equal to their cost.

Senator SIMON. That is a significant answer.

Do any of the rest of you wish to respond?

Mr. FUCHS. Senator?

Senator SIMON. Yes?

Mr. FUCHS. In 1981, testifying before this same committee, I said guesses about guesses are still guesses. What we have is people who came in the early 1980's, some political leaders, business leaders, some economists who said, illegal aliens, don't take them away from us. Senator Kennedy faced this years ago with Senator Eastland. When Paul Douglas made his proposal, Senator Eastland sat on it. It lost in a Senate vote. Why? Because you will cripple the economy of our State if you take away our illegal aliens. People in

California were telling me that in the early 1980's. You will cripple the State if you take away our illegal alien. That is a hard thing to face, but that is the reality. That is the truth.

But they were giving guesses then. They had guesses then. So a lot of what you get in the way of costs are guesses, but we are trying to do a better job of getting more precise data, getting a control over it.

But the U.S. Select Commission decided that is not the real issue. The issue is that you have illegal aliens coming into this country outside of the law, jeopardizing legal immigration law, exposing themselves as an exploitable class, depressing wages and standards. You don't want to have a large underclass of people living outside of the law, even if they are fine human beings, even if they help reduce the cost of the dress that your wife buys or the lettuce that I pick up from the supermarket. That is not a good way to run a country of free men and women.

So guesses about guesses are still guesses. We will try to do better at it.

Senator SIMON. All right.

Mr. HILL. If I may, Senator, I don't think there is a member of this Commission that doesn't recognize that there are benefits that we all gain from the presence of immigrants and unlawful migrants in the United States.

However, there are also costs, and one of the costs that we are particularly concerned about is a deterioration in respect for law and the increasing blurring of the distinction between lawful immigrants and illegal immigrants in the public mind. That is something that we have tried to address in emphasizing the seriousness of the lack of enforcement or the ineffective enforcement of our laws with respect to illegal immigrants.

Senator SIMON. Mr. Teitelbaum?

Mr. TEITELBAUM. Senator, we asked your question in various of our hearings and consultations. It is a key question. The only thing I want to add to what our chairperson and other members of the Commission have said is that we have been told frequently, in response to such a question, that we don't ask. That is, we, the local officials, education officials, health officials, we don't ask questions about immigrants, about legal status, et cetera. There are often executive orders or laws or judicial interpretations that prohibit or are perceived to prohibit inquiries about such questions.

The conclusion we came to is that as a system, perhaps we collectively have somehow decided we don't want to know the answer to your question because we don't ask for data that would allow us to answer it in a sensible way. We think there are ways to get better answers than we have, but I think our chairperson has correctly indicated our uncertainty at this point.

Now the second point on this is that the benefits are often narrow, focused, and clear and immediate. That is, the people who benefit know they benefit and they benefit pretty quickly. The costs are often delayed, fuzzy, ambiguous, so the people who benefit might be, let us say, the immigrants themselves, for example. Presumably, they are being rational in their decisions, or their employers or particular industries or particular regions or landlords. You

hear from them here. You hear from the beneficiaries in quite loud and clear terms.

The costs are broader and they are buried and they are delayed, and it is not until people get very exercised and the economy is not strong that you begin to hear about those costs. So that is why there is kind of a disconnect between costs and benefits in what is heard here.

Senator SIMON. I would make only one correction to an old friend here. We are not primarily hearing from the beneficiaries.

Mr. TEITELBAUM. Not now.

Senator SIMON. We are hearing from a lot of people who just in a knee-jerk way are saying, we have to stop this flow of immigrants into this country, and there is, as someone mentioned, no distinction between legal and illegal immigration.

One question affects only a small number of people who are here illegally but is of concern to me in terms of civil liberties. Have you at all examined this question of people who are incarcerated who are not charged with any crime here but are just being held ad infinitum in our penal system?

Ms. JORDAN. Senator, we know that that is a subject which needs to be addressed by us, and we are going to issue a special report on that very matter this coming year. That will be in your hands by this time in 1995.

Senator SIMON. Good.

Senator KENNEDY. Thank you very much.

I just have one final question, and that is in your review of these issues, what can you tell us, at least on the basis of your study in terms of discrimination in the workplace that you are detecting and how effective we are in trying to deal with it? Obviously, if you have recommendations, we would like to hear those as well. I am interested first of all in finding out what your own kind of assessment is.

Ms. JORDAN. Senator, that is a very serious issue, discrimination in the workplace on the basis of your immigrant status. We can look at that and it is not easy to find out exactly how that occurs or why it occurs. One thing which our report will do, if those recommendations are implemented, is we will relieve the employer of some of the burden that he has because of the way the system presently works. But if we can get a verifiable system in, the employer may be able to get off the spot on some of these things.

We have recommendations regarding the Office of Special Counsel in the Justice Department in dealing with this issue of discrimination in the workplace, and the Office of Special Counsel indicated that they do have a role to play in responding to charges of discrimination in immigration and they are willing to assume that role in a more aggressive manner than we have seen them assume in the past.

Susan Martin or Bob Hill, would you—

Senator KENNEDY. Could I just sharpen it a bit? We thought that there was enough, some of us did, protections in terms of the employers, the range of different credible procedures to hold them harmless in terms of any prosecution. But in the confusion of it, they were using these kinds of systems to actually discriminate against foreign-born.

I am just interested. We may be getting down into semantics on this, but I would be interested, again, what is your own sense about what is happening out there in the real world.

Mr. HILL. Senator, I think it is clear to all of us on the Commission that discrimination is taking place. We don't know the extent of it, and we know that some of it is intentional and some of it is unintentional. A lot of it is caused, in our view, by the confusion of employers with respect to the requirements of the law and how to actually deal with a system that requires them to examine any one of up to 29 different documents.

To the extent that discrimination against lawful permanent residents and U.S. citizens occurs in the workplace, it can't be tolerated. We have come to the conclusion that the system we are recommending for verification is perhaps the best system that will eliminate the vast majority of instances of discrimination.

Senator KENNEDY. Are you working with the Justice Department now in terms of sensitizing them to better information, or the Immigration Service, so that there is more information out there to reduce the discrimination by those who are confused and who don't want to be discriminating as well as giving any information to those, that you at least develop some sense that there may be a pattern or practice of discrimination?

Mr. HILL. Yes, Senator. In fact, we addressed those particular questions in our report. We have established a working group on work site enforcement where we deal regularly with officials in the various agencies. I know Susan Martin has been in constant contact with them.

Senator SIMPSON. Mr. Chairman, may I ask a final question, because that issue of discrimination was part of our negotiation, whether there was widespread evidence of discrimination, and then there was a GAO report and I and others had comments on that. They did make distinctions between discrimination by alienage—that is a very serious issue. Nobody understands that one, whether you are a Brit or an Englishman or an American or whatever, a Frenchman. That is discrimination on alienage. It doesn't have anything to do with discrimination of color, religion, or anybody else, but that one gets lost in the shuffle, too, along with a lot of them, because you use the word discrimination.

We have a special council under the legislation. I don't know what the record is over there, but it would be interesting to put in the record how many people have come forward and how many of them have been proven, and there are very few of them that have produced anything in the way of "discrimination" as we know it, or what we were trying to protect against.

There are always going to be employers who discriminate. There are evil, bigoted people that do that. That is something that we will never handle in any law.

I had just a question directed to all of you, and this is the kind of stuff we get into here. It is PC and watch out for the flash words. I have been through 15 years of this.

I think we should be paying more attention to helping immigrants become Americans—don't throw anything. When we take large numbers of immigrants, we must take care to promote our national unity, and without American unity, we will have no de-

mocracy. I know that sounds terribly corny and terribly outdated, and I know that.

I said long ago, we have a common flag and a common language. We don't care what you do in your private culture. If you want to go home at night and worship the great eel, that is your business. But we do have a common flag and a common language.

Yesterday on the floor of the Senate, we did an amendment which said that if someone is teaching English as a second language, they should be proficient in English. That passed. What was it even doing before us? How absurd. How do you teach English as a second language unless you are proficient in English? That was an amendment yesterday on the floor of the Senate. I am sure it passed 100 to nothing or 98 to zip. That is how absurd this is.

Do you believe we can continue to absorb immigrants at the current rate of about a million a year—that is what it is, including illegal—without ultimately risking some of the ethnic mayhem that we see all around the world, from Africa to Yugoslavia?

Ms. JORDAN. Senator, I am old-fashioned and country and hokey, too, when it comes to this country. [Laughter.]

I would like to see people who are so enamored of us that they would like the right to enter. I want them to become citizens of this country. I want that, and I encourage them to do so.

I believe that when we admit large numbers of immigrants into the country, that our ultimate goal should be to integrate them into the civic culture and polity of America. That is the goal. Otherwise, I don't know why they are so anxious to come.

I do believe that we have got to get away from all of the hyphens that we use to identify ourselves and just let us all be Americans. I would go for that.

Senator SIMPSON. I can't add a shred to that. That is about as powerful as it can be given by a person who is as respected as you.

Senator KENNEDY. Senator Simon?

Senator SIMON. Just an observation, and you will note there are some slight differences in our subcommittee here on some things.

On the matter of language, there is no question we ought to be doing everything we can to see that everyone who comes into our country has the opportunity to be proficient in English. I think it is also interesting, however, that we have a lower percentage of people whose mother tongue is not English than almost at any time in our Nation's history.

I want to make clear I am not talking about Alan Simpson here, but some of those who advocate English only or English as the official language and so forth are the very people who vote against appropriations for classes so that people can learn English. We have waiting lines in Los Angeles, in Chicago, and in other major areas.

Then finally, in the area of discrimination, I hope you will address that. I think even after we got the GAO report, we couldn't agree what the GAO report said. I think because we respect this Commission, it would be worthwhile for you to take a look at that and tell us what you think.

Finally, I would just observe, we have commissions that are just name things that don't do anything. Barbara, you have experienced that in your years up here. I have the feeling we have here a Commission that is really taking its responsibility seriously, and I ap-

plaud that. I think you are making a real contribution to this Nation.

Ms. JORDAN. Thank you, Senator.

Senator KENNEDY. Thank you very much.

We want you to feel that you can call on us at any time that we can be helpful, and also when you are developing these consensus. I think as has been mentioned here, this is an ongoing and continuing issue of enormous importance and significance. The people have enormous respect, as has been stated here now and earlier, for this Commission and they way they are going about it. But we want you to let us know as you go through this process so that we can benefit from the thoughts.

Thank you very, very much.

Ms. JORDAN. Thank you.

Senator KENNEDY. I want to give a special welcome to Alice Rivlin, a longtime friend of us in this committee and of Congress, who is making her maiden voyage as Director-Designate of the Office of Management and Budget. That she is doing so on the issue of immigration is significant. It reflects the importance this issue represents in the Clinton administration and to the American people.

Reflecting the same sense of priority was the appearance before the Judiciary Committee last month of Attorney General Reno, who spent three hours discussing in detail the administration's plan and actions on immigration reform.

Sitting next to Alice Rivlin is Doris Meissner, the Commissioner of the Immigration and Naturalization Service. We welcome both of you.

Dr. Rivlin, we are delighted to have you here and we look forward to your testimony.

STATEMENT OF HON. ALICE M. RIVLIN, DIRECTOR DESIGNATE, OFFICE OF MANAGEMENT AND BUDGET; ACCOMPANIED BY HON. DORIS MEISSNER, COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE

Ms. RIVLIN. Thank you very much, Mr. Chairman.

Thank you for this opportunity to appear today to discuss the fiscal impact of illegal immigration on States. This is a very important issue, one in which the Clinton administration is, I believe, the first to be focusing significant attention.

As you know, this administration inherited a difficult and persistent immigration problem. We have taken aggressive steps to control illegal immigration problems while maintaining the United States' rare tradition as a nation of immigrants.

I am very pleased to be joined today by Doris Meissner, the Commissioner of the Immigration and Naturalization Service, who has provided tremendous leadership for the administration in this area.

Let me state our conclusion first. The Federal Government's primary responsibilities in this area are to ensure that unauthorized aliens are kept out of the United States, legal immigrants are welcomed, and refugees are protected from harm. However, the legacy of the inadequate past enforcement has created a problem for a number of States that face costs associated with providing health

care and education to undocumented immigrants as well as incarceration costs for those who commit crimes in this country.

We believe that all levels of government have a shared responsibility in responding to these problems, and the administration is committed to working with the States as well as, of course, with the Congress on this issue.

There are no easy solutions to these complicated problems. The administration has been working hard on these questions, and I am here to share with you the progress that we have made, in particular on two questions: What we are doing to secure and manage the borders and prevent illegal immigration, and what we are doing to help those States most affected by the flow of illegal immigrants.

First on the Federal responsibility for enforcement, which is primarily Doris's responsibility, not mine, the Federal Government's primary responsibility is to control and manage the Nation's borders. We must address this responsibility seriously as a matter of national sovereignty and in order to maintain fiscal and economic security.

Unfortunately, there have been years of inadequate protection and the public, with some justification, has lost confidence in the Federal Government's ability to handle the problem. A new approach was needed, and in response the administration developed and is refining a comprehensive plan to secure and manage the borders and reform the immigration system. We want to make the INS an effective agency by investing significant resources in its people, its infrastructure, and its technical capacities.

As you know, the \$45 million that the President requested and the Congress provided in fiscal year 1994 for enhanced border controls has produced significant results on the Southwest border. For example, "Operation Hold-the-Line" involves a new strategy of controlling the border by saturating a 20-mile stretch of the United States-Mexican border between El Paso and Juarez with Border Patrol agents. We think this is working, and if you have questions about it, I am sure Doris will be able to respond to them.

In fiscal year 1995, the administration will continue to make investments to improve our immigration programs. The President's 1995 budget proposes \$2.6 billion within the Department of Justice for immigration, of which \$2.1 billion is for the INS, a 22-percent increase over the INS's 1994 enacted budget.

Our budget request contains a significant investment of \$368 million to fund five major immigration initiatives. These initiatives will give the INS the ability to improve border enforcement, the land border, and at airports and in the interior. INS will help beef up border operations in San Diego and other affected areas, increase employer sanctions and enforcement coverage, deport criminal aliens expeditiously, adjudicate the asylum cases on a timely basis, and increase naturalization opportunities for legal immigrants.

Let me turn to the Federal-State partnership. While the administration is attempting to curb further illegal immigration, we are nevertheless burdened with the consequences of past policy choices. We now have approximately 3.8 million unauthorized immigrants living in our country, and it is estimated that 85 percent of them

are concentrated in seven States—California, Texas, Florida, New York, Illinois, Arizona, and New Jersey. These States are concerned about the costs associated with these immigrants.

We believe that there ought to be a strong partnership between the Federal and State Governments on this issue that is based on the notion of shared responsibility. This notion draws on the unique strengths of our system of representative government and our national heritage. There is a need for Federal leadership, but only a true partnership of Federal and State Governments, together with the local communities, can implement solutions to this kind of major national problem.

We in this administration are willing to face the hard issues and work to find meaningful solutions based on the notion of shared responsibility. We want to work with the States, the Congress, and other interested groups to find common ground.

As you know, some States have taken this issue to the courts, but we have urged the Governors and State legislatures instead to work with us and with the Congress to find solutions.

On January 31, my predecessor, Leon Panetta, and other cabinet officers met with the Governors or their representatives of the seven States most affected by illegal immigration. We heard what the Governors had to say and we committed the executive branch to become actively involved in solving this problem.

We have made progress since that initial meeting. The first order of business was to understand the magnitude of the illegal immigration problem and its impact on the States. In reviewing the States' request for reimbursements, we were concerned about the varying methods that the States employed to estimate their costs. The accuracy of cost estimates needs to be reviewed thoroughly and uniformly before sound policy and budget choices can be made.

To determine more definitively the impact of immigration on the States, we asked the Urban Institute to provide technical assistance to the Federal Government. This is the first time the Federal Government has attempted to undertake an analysis of Medicaid, education, and corrections costs imposed on States by illegal immigration. Senior policy officials from the White House and OMB and the various departments involved are supporting this effort.

We asked the Urban Institute to help the administration develop a set of uniform standards to evaluate both the costs imposed by unauthorized immigrants and the revenues paid to the States by the same population in the form of sales, property, and income taxes.

This study is in its final stages. We hope to have its results in about a month. It should, however, be viewed as a first step in an effort to understand illegal immigration's effects on the States. By its very nature, this is an elusive problem. We strongly agree with the Commission on Immigration Reform's recommendation that before the administration and Congress make decisions about reimbursement to the States, we all need to be more informed about the impact of illegal immigration.

The administration is already taking important steps to help affected States. For example, we are directly addressing their concerns about the costs of incarcerating criminal aliens. As you know,

Congress authorized payments to States to help with these costs as part of the Immigration Reform and Control Act of 1986.

The President's 1995 budget proposes, for the first time, a \$350 million State Criminal Alien Assistance Program to provide fiscal relief to States affected by large populations of criminal illegal aliens in State correctional facilities. We are the first administration in the 8 years since the program's authorization to seek appropriation for this program. That is an example, I think, of our commitment to do our share in solving this difficult problem.

The Senate recently passed the Hutchinson-Dole amendment to provide the \$350 million for this program. Unfortunately, the administration had to oppose this amendment because it pays for the program by reducing funds for the U.N. peacekeeping. We don't think that is the way to do it. We remain committed to funding the incarceration program and are working with the Congress to identify other offsets for funding.

The INS is also improving its criminal alien program as a way to further help States with managing criminal alien problems. The institutional hearing program, which expedites deportation of criminal aliens, is currently operating in the seven most heavily affected States. In New York alone, the INS has already issued 180 removals through April 1994, compared with 373 in all of last year. It has signed a memorandum of understanding with Florida to deport 500 nonviolent criminal aliens. This will free prison space for incarceration of violent criminals.

The administration is also helping States as much as possible through established programs which have broader program goals, but nevertheless assist those States heavily burdened with costs of illegal immigration.

For example, the budget proposes a total of \$7 billion, a 10-percent increase, in funding title I of the Elementary and Secondary Education Act, the largest Federal elementary and secondary education program. The President's legislative proposal would increase funds to the poorest districts and schools. This money would thus flow to districts that have large numbers of poor people and large numbers of immigrants with special education needs.

Unfortunately, the House has passed a title I bill which includes a different formula than that proposed by the administration. We will continue to work with the Congress for better distribution of these funds.

The Federal Government also provides assistance to States to provide emergency health services to undocumented aliens. As a condition of participation in the Medicaid program, States reimburse hospitals for emergency care and deliveries provided for undocumented aliens who would, but for their immigration status, otherwise be eligible for Medicaid. The Federal Government reimburses the States for these expenses at rates ranging from 50 to 79 percent.

The administration has estimated that the Federal proportion of Medicaid spending on emergency services for undocumented aliens will total \$400 to \$500 million in fiscal year 1994. In addition, the disproportionate share payments, somewhat like title I of ESEA, go to hospitals with high payments for uncompensated care, and those tend to be the same hospitals that treat undocumented aliens.

Finally, in order to determine more fully the efforts of the Federal Government to meet immigration challenges, OMB initiated an analysis of Federal expenditures related to immigration and immigrants. Our preliminary estimate is that the President's fiscal year 1995 budget includes approximately \$25 billion for immigration enforcement programs and other programs that serve immigrants, both legal and illegal.

These programs include the Department of Education's spending for title I, bilingual and immigrant education, HHS spending on refugees, AFDC, Supplemental Security Income, Medicaid, Justice spending for INS and the State Criminal Alien Assistance Program, and other Federal programs in the Department of Treasury, Labor, and Housing and Urban Development.

The 1995 Clinton administration budget contains about 32 percent more than the 1993 Bush administration budget for the same programs. I have appended to this statement our estimates for those programs.

In these tight budgetary times, the administration is working to address the problems of illegal immigration and to help the States as much as possible. When it comes to reimbursements, however, we should not be under any illusions. We continue to face a hard freeze on discretionary spending. In this zero-sum budget game, every dollar spent for immigration programs must be taken from somewhere else.

The administration believes that immigration is a high priority and we are seeking increased spending to meet the need for better border and interior enforcement and for increased assistance to States. But only improved enforcement can curtail the fiscal burdens on the States in the future. Hence, enforcement is where the administration has placed its highest priority for spending for immigration programs.

The debate about this country's policy and budgetary goals with respect to the States' reimbursement claims for incarceration, Medicaid, and education costs must be supported, as the Commission and its Chairman emphasized before me, must be supported by better information about the magnitude of the problem. The Urban Institute study will help, but it is just a first step.

I look forward to having the opportunity to address Congress again on this issue when better analysis is available. Thank you, Mr. Chairman.

[The prepared statement of Ms. Rivlin follows:]

PREPARED STATEMENT OF ALICE M. RIVLIN

Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you today to discuss the fiscal impact of illegal immigration on States. This is an important national issue and one which the Clinton Administration is the first to be focusing significant attention.

As you know, this Administration inherited a difficult and persistent immigration problem. We have taken aggressive steps to control illegal immigration problems while maintaining the United States' rare tradition as a nation of immigrants. I am very pleased to be joined today by Doris Meissner, the Commissioner of the Immigration and Naturalization Service (INS), who has provided tremendous leadership for the Administration in this area.

Mr. Chairman, I will state our conclusion first. The Federal Government's *primary* responsibilities in this area are to ensure that unauthorized aliens are kept out of the United States, legal immigrants are welcomed, and refugees are protected from harm. However, the legacy of inadequate past enforcement has created a prob-

lem for a number of States that face costs associated with providing health care and education to undocumented immigrants, as well as incarceration costs for those who commit crimes in this country.

We believe that all levels of government have a *shared* responsibility in responding to these problems. And the Administration is committed to working with the States on this issue.

There are no easy solutions to these complicated immigration and Federal/State relationship problems. The Administration has been working hard on these tough questions, and I am here today to share with you the progress we have made. In particular, I want to address two key questions that get to the heart of the Federal role:

- 1) What are we doing to secure and manage the borders and prevent illegal immigration; and
- 2) what are we doing to help those States most affected by the flow of illegal immigration.

FEDERAL RESPONSIBILITY FOR ENFORCEMENT

The Federal Government's primary responsibility in the area of illegal immigration is to control and manage the nation's borders. We must address this responsibility seriously as a matter of national sovereignty and in order to maintain fiscal and economic security. Unfortunately, this Administration inherited a serious problem. After years of inadequate protection, the public, with some justification, had lost confidence in the Federal Government's ability to handle the problem.

A new approach was needed, and in response, the Administration developed and is refining a comprehensive plan to secure and manage the borders and to reform the immigration system. We want to make the INS an effective agency by investing significant resources in its people, infrastructure, and technical capabilities.

As you know, the \$45 million that the President requested and the Congress provided in fiscal year 1994 for enhanced border controls has produced significant results at our Southwest border. For example, "Operation Hold-the-Line" involves a new strategy of controlling the border by saturating a 20-mile stretch of the U.S./Mexico border between El Paso and Juarez with Border Patrol agents. Previously, INS had concentrated on intercepting illegal border crossers after they had entered El Paso. The Commission on Immigration Reform's recently released report evaluating this El Paso operation concluded that illegal crossings into El Paso have been substantially deterred. The study also shows that the operation appears to have reduced petty crime and increased the seizure of illegal drugs. The deterrent effect of "Operation Hold-the-Line" appears to have diminished somewhat the longer the operation lasted and it has less of a deterrence effect on long distance labor migrants than on other kinds of crossers. Taken together, however, "Operation Hold-the-Line" has been a successful experience for the INS and has shown that a strong enforcement strategy is an effective way to solve some of our immigration problems.

In fiscal year 1995, the Administration will continue to make investments to improve our immigration programs. The President's fiscal year 1995 budget proposes \$2.6 billion within the Department of Justice for immigration, of which \$2.1 billion is for the INS (a 22 percent increase over INS' fiscal year 1994 enacted budget). Our budget request contains a significant investment of \$368 million to fund five major immigration initiatives. These initiatives will give INS the ability to improve enforcement at the land border, at airports, and in the interior. INS will help beef up border operations in San Diego and other affected areas, increase employer sanctions enforcement coverage, deport criminal aliens expeditiously, adjudicate asylum cases on a timely basis, and increase naturalization opportunities for legal immigrants.

Increased enforcement of our immigration laws should be the first priority with respect to immigration. The Administration is convinced that the only effective way to reduce permanently the burdens faced by States due to illegal immigration is a comprehensive effort by the Federal Government. In the short run, we need to stem the flow of illegal immigration through both border and interior enforcement. Ultimately, however, in addition to enforcement, the improved availability of job opportunities in Mexico is essential to reducing the incentive to cross. In this regard, we expect that one of the longer term benefits of NAFTA will be reduced pressures on the borders.

FEDERAL/STATE PARTNERSHIP

While the Administration is attempting to curb further illegal immigration, we are nevertheless burdened with the consequences of past policy choices. We now

have over 3.8 million unauthorized immigrants living in our country. It is estimated that over 85 percent of them are concentrated in seven States (California, Texas, Florida, New York, Illinois, Arizona and New Jersey). And these States are concerned about costs associated with those immigrants.

We believe that there ought to be a *strong partnership* between the Federal and State Governments on this important issue that is based on the notion of shared responsibility. This notion draws on the unique strengths of our system of representative government and our national heritage. There is a need for Federal leadership but only a true partnership of Federal and State governments together with local communities can implement solutions to major national problems. We are willing to face the hard issues and work to find meaningful solutions that is based on the notion of shared responsibility. We want to work with the States, Congress and other interested groups to find common ground. As you know, some States have taken this issue to the courts. But we have urged the Governors and State Legislatures instead to work with us and the Congress to find solutions.

On January 31st, then OMB Director Leon Panetta and other Cabinet officers met with the Governors or their representatives of the seven States most affected by illegal immigration. The Administration heard what the Governors had to say and we committed the Executive branch to become actively involved in solving this problem. Congress must also be an active participant.

We have made progress since that initial meeting. The first order of business was to understand the magnitude of the illegal immigration problem and its impact on the States. In reviewing the States' requests for reimbursements, we were concerned about the varying methods that the States employed to estimate their costs. The accuracy of cost estimates needed to be reviewed thoroughly and uniformly before sound policy and budget choices can be made.

URBAN INSTITUTE STUDY

To determine more definitively the impact of immigration on the States, we asked the Urban Institute to provide technical assistance to the Federal Government. This is the first time that the Federal Government has attempted to undertake an analysis of Medicaid, education, and corrections costs imposed on States by illegal immigration. Senior policy officials from the White House, the Office of Management and Budget, and the Departments of Justice, Education, and Health and Human-Services (HHS) are supporting this effort. We asked the Urban Institute to help the Administration develop a set of uniform standards to evaluate both the costs imposed by unauthorized immigrants and the revenues paid to the States by the same population in the form of sales, property and income taxes.

The Urban Institute study, now in the final stages of its methodology review and cost/revenue analysis, should be viewed as a good first step in an effort to understand illegal immigration's effect on States. Illegal immigration is by its very nature an elusive subject that does not lend itself to simple analysis. We strongly agree with the Commission on Immigration Reform's recommendation that before the Administration and Congress make decisions about reimbursements to the States, we need to be more informed about the impact of illegal immigration on States. We expect to share the findings of the Urban Institute study with Congress, the States, and the public in about a month.

PARTNERSHIPS WITH STATES ON CRIMINAL ALIEN ISSUES

The Administration is already taking important steps to help affected States. For example, we are directly addressing their concerns about the cost of incarcerating criminal aliens. As you know, Congress authorized payments to States to help with these costs as part of the Immigration Reform and Control Act of 1986. The President's fiscal year 1995 budget proposes for the first time a \$350 million State Criminal Alien Assistance Program (SCAAP) to provide fiscal relief to States affected by large populations of criminal illegal aliens in State correctional facilities. This is the first Administration, in the eight years since the State Criminal Alien Assistance Program's authorization, to seek appropriations for the program. I believe that this commitment to take action is a clear example of the Administration's desire to share the responsibility for solving this difficult problem.

The Senate recently passed the Hutchison-Dole amendment to provide the \$350 million for this program. Unfortunately, the Administration had to oppose this particular amendment because it pays for the program by reducing funds for United Nations Peacekeeping. The Administration remains committed to funding the incarceration program and is working with the Congress to identify other offsets for funding.

The INS is also improving its criminal alien program as a way to further help States with managing criminal alien problems. The Institutional Hearing Program, which expedites deportation of criminal aliens, is currently operating in the seven most heavily affected States. For example, in New York alone, the INS has already issued 180 removals through April 1994, compared with 373 all of last year. The INS has also signed a Memorandum of Understanding with Florida to deport 500 non-violent criminal aliens. This will free prison space for incarceration of violent criminals.

PARTNERSHIPS WITH STATES ON EDUCATION AND HEALTH CARE ISSUES

The Administration is also helping States as much as possible through established programs, which have broader program goals, but nevertheless assist those States heavily burdened with the costs of illegal immigration. For example, the budget proposes a total of \$7 billion, a 10 percent increase, in funding for Title I of the Elementary and Secondary Education Act, the largest Federal elementary and secondary education aid program. The President's legislative proposal would increase funds to the poorest schools and districts. This money would flow to school districts with large numbers of immigrants with special educational needs. The combination of program changes and proposed funding increases will, therefore, serve important education program goals while also providing substantial help to school districts with large immigrant populations. Unfortunately, the House has passed a Title I bill which includes a very different formula from that proposed by the Administration. However, we will continue to work with Congress for better distribution of these funds.

The Federal Government also provides assistance to States to provide emergency health services to undocumented aliens. As a condition of participation in the Medicaid program, States reimburse hospitals for emergency care and deliveries provided for undocumented aliens who would, but for their immigration status, otherwise be eligible for Medicaid. The Federal Government reimburses States for these expenses at rates ranging from 50 percent to 79 percent. The Administration has estimated that the Federal portion of Medicaid spending on emergency services for undocumented aliens will total between \$400 and \$500 million in fiscal year 1994. Medicaid's data reflecting the costs of treating undocumented aliens in emergency rooms is incomplete.

In addition, States may also choose to provide supplemental, or "disproportionate share," payments to hospitals for uncompensated care, including the care of undocumented aliens. States are relatively free to devise payment methodologies for disproportionate share hospital payments within the broad constraint of an overall cap on Federal matching payments. We don't know what proportion of disproportionate share payments States target to hospitals serving large numbers of undocumented aliens. Disproportionate share hospital payments totalled nearly \$17 billion in fiscal year 1993.

FEDERAL EXPENDITURES ON IMMIGRATION AND OTHER PROGRAMS BENEFITING IMMIGRANTS

In order to determine more fully the efforts of the Federal Government to meet immigration challenges, OMB initiated an analysis of Federal expenditures related to immigration and immigrants. Our preliminary estimate is that the President's fiscal year 1995 budget includes approximately \$25 billion for immigration enforcement programs and other programs which serve immigrants, both legal and illegal. These programs include Department of Education spending for Title I, bilingual and immigrant education, HHS spending on refugees, Aid to Families with Dependent Children, Supplemental Security Income, Medicaid, Justice spending for INS and the State Criminal Alien Assistance Program, and other Federal programs in Departments of the Treasury, Labor, and Housing and Urban Development. The fiscal year 1995 Clinton Administration budget contains about 32 percent more than the fiscal year 1993 Bush Administration budget request for the same programs. The summary data are appended to this statement. I should caution that, for some programs, we have only initial estimates. We are working to improve the estimates.

In these tight budgetary times, the Administration is working to address the problems of illegal immigration and to help States as much as possible. However, when it comes to reimbursements, we should not be under any illusions. We continue to face a hard freeze on discretionary spending. In this "zero sum" budget game, every dollar spent for immigration programs must be taken from somewhere else. This Administration believes that immigration is a high priority and we are seeking increased spending to meet the need for better border and interior enforcement and for increased assistance to States. But only improved enforcement can curtail the

fiscal burdens on the States in the future. Hence, enforcement is where the Administration has placed its highest priority in spending for immigration programs.

CONCLUSION

Debate about this country's policy and budgetary goals with regard to the States' reimbursement claims for incarceration, Medicaid, and education costs must be supported by better information about the magnitude of the problem. The Urban Institute study will help shed light on these matters. I look forward to having the opportunity to address Congress again on this issue when that analysis is available.

In the meantime, the Administration will continue to focus on strengthening border enforcement and on working with the Congress to fund the programs we are supporting to assist the States with their costs.

Thank you Mr. Chairman.

FEDERAL SPENDING ON IMMIGRATION AND OTHER PROGRAMS AFFECTING IMMIGRANTS—
BEST ESTIMATES ¹

[In millions of dollars]

Summary by State	Fiscal year 1993 Bush request budget au- thority	Fiscal year 1993 en- acted budget authority	Fiscal year 1994 en- acted budget authority	Fiscal year 1995 Clinton request budget au- thority	Change: Fis- cal year 1993 Bush request to fiscal year 1995 Clinton request budget au- thority
Total immigration- and immigrant-related spending	18,808	19,289	22,077	24,788	5,979
California	6,305	6,409	7,573	8,397	2,092
Texas	1,392	1,403	1,647	1,850	458
New York	1,943	2,005	2,250	2,483	540
Florida	1,303	1,439	1,599	1,783	480
All other	7,865	8,033	9,007	10,274	2,409
Summary by agency					
Total immigration- and immigrant-related spending	18,808	19,289	22,077	24,788	5,979
Agriculture	25	25	25	25	—
Education	580	643	655	719	139
Health and Human Services (HHS)	13,947	14,071	16,744	18,457	4,510
Housing and Urban Development (HUD)	2,035	2,214	2,154	2,308	273
Justice	1,656	1,621	1,769	2,553	897
Labor	130	147	147	142	12
State	76	75	78	74	—2
Transportation	161	292	296	305	144
Treasury	198	201	209	204	6

¹ Notes: Where "hard" data were unavailable on Federal spending on immigration and other programs affecting immigrants, estimates were extrapolated using Census, INS, and other data.

HIGHLIGHTS OF FEDERAL SPENDING RELATING TO IMMIGRANTS AND IMMIGRATION
CONTAINED IN ADMINISTRATION'S FISCAL YEAR 1995 BUDGET REQUEST

ENFORCEMENT

- *Immigration and Naturalization Service.*—The President's 1995 budget requests \$2.1 billion to fund the primary immigration law enforcement agency of the Federal government. The budget includes \$368 million of new funds for an enforcement initiative to reduce the flow of illegal immigration. The total for INS represents an increase of more than one-third from the Bush fiscal year 1993 proposal.
- *Border Patrol.*—\$181 million to increase the number of Border Patrol agents on the Southwest border, provide new vehicles, improve communications and border surveillance equipment, and provide fencing and improved training.

- *Deporting Criminal Aliens.*—\$55 million to expand the Justice Department's program to investigate incarcerated criminal aliens so that they can be deported expeditiously upon completion of their sentences.
- *Reforming Asylum Procedures.*—\$64 million to double numbers of Immigration Judges, Asylum Officers, and Justice Department litigators to adjudicate and review asylum cases.
- *Employer Sanctions Enforcement.*—\$38 million to step up INS enforcement of existing employer sanctions against hiring undocumented workers.
- *Naturalization.*—\$30 million to streamline and expedite the naturalization process.

INCARCERATION

- *State Criminal Alien Assistance Program.*—\$350 million to help States pay for the cost of incarcerating illegal aliens convicted of a felony. The program was authorized by Congress in 1986, but this is the first Administration to propose funding it.

EDUCATION

- *Title I: Education for Disadvantaged Children.*—The budget proposes \$7 billion in funding for Title I, the largest Federal elementary and secondary education aid program. The President's legislative proposal would increase targeting of these funds to the highest poverty schools and districts. The combination of improved targeting and the proposed funding increase from 1994 to 1995 would increase Title I for most districts heavily affected by immigration. An estimated \$350 million of the Title I program enhances the education of disadvantaged immigrant students, a 12-percent increase from the Bush 1993 budget.
- *Bilingual Education.*—The 1995 budget proposes an increase of \$27 million to \$215 million, a 12-percent increase from 1994, and a 72-percent increase from the Bush 1993 request. These funds support school districts' services to limited-English proficient students, including large numbers of immigrant children and youth.
- *Adult Education Grants.*—The 1995 budget contains a 5-percent increase of \$11 million to \$267 million. This is the primary Federal program supporting English-as-a-second-language and basic education for adults and out-of-school youth. Of the \$267 million requested, about \$85 million will be spent on immigrants receiving education services.

HEALTH AND HUMAN SERVICES

- *Aid to Families with Dependent Children.*—An estimated \$530 million of the AFDC's 1995 budget will be spent on immigrants who meet family situation and income qualifications for this program.
- *Supplemental Security Income.*—An estimated \$3.2 billion of the SSI's 1995 budget will be spent on immigrants who meet income, age or disability criteria for this program.
- *Medicaid.*—An estimated \$8.4 billion in Federal funds will be spent in 1995 through Medicaid for immigrants who receive Medicaid benefits by qualifying for AFDC or SSI programs, or by qualifying as needy by meeting certain situation and income tests.
- *Medicare, Supplementary Medical Insurance (Part B).*—An estimated \$530 million of the Health Care Financing Administration's 1995 budget for Medicare will be spent on immigrants who meet residency and premium payment requirements.
- *Social Security, Old Age, Survivors, and Disability Insurance (OASDI).*—An estimated \$4.9 billion of the Social Security Administration's budget in 1995 for OASDI will provide benefits to immigrants who qualify as retired, survivor or disability beneficiaries.
- *Refugee Resettlement.*—The program provides cash, medical assistance and social services to eligible, newly arrived refugees. The 1995 budget proposes \$414 million for the program. This represents a 82-percent increase from the Bush 1993 budget.

Senator KENNEDY. Thank you very much.

Ms. Meissner, is there anything that you wanted to add?

Ms. MEISSNER. I do not have a separate statement, no.

Senator KENNEDY. Just in listening to you, Ms. Rivlin, on the questions of help and support of States, particularly with regard to migrants, we just passed on our ESEA program yesterday, in my memory, about \$350 to \$400 million for migrant education. Actually, 40 percent of it goes to California.

How do you know in terms of those programs whether they are going for the children of legal or illegal aliens? Do you depend on the State to make those decisions? I was listening as you were going down the list of them, and a number of them are through our Human Resources Subcommittee. Do you leave that up to the State and then you do it, or do you have a separate kind of investigative group and enforcement group? Is it the judgment of the Congress, which has been made a number of years ago to cut back in terms of the support for those that are here illegally, including even children, which are going to be enforced?

Ms. RIVLIN. It depends on the program, but in general, enforcement would be up to the States, subject to Federal oversight and checking, as in the Inspector General looking at whether spending was in accordance with the Federal law.

Senator KENNEDY. I would imagine it would be very difficult. As it is in prisons now, you get foreign-born, but at least maybe in some States, you don't have the kind of knowledge—there have been some comments that some States do, but as a general rule, that they don't know what the immigration status of many of the people that are incarcerated is. I believe that to be the situation, too.

Ms. RIVLIN. Right; I think Ms. Meissner may have a further comment on it. Certainly, she is working very hard to make sure that we know more about who is here legally and who isn't.

Ms. MEISSNER. Where incarcerated aliens are concerned, of course we are very concerned to learn who among the foreign-born are in illegal status or deportable, even if they are lawful permanent resident aliens. That is, as you know, a major focus of our criminal alien activity. It is a major focus of what the Congress has been considering as part of the funding for the President's program in the coming fiscal year, but that is because these people are deportable and obviously because they are incarcerated and it is in our interest for a variety of reasons to try to remove them from the country expeditiously.

Where education is concerned and educational programs at the State and local level are concerned, there is not only not a prohibition where undocumented children are concerned, there is, in fact, affirmatively a Supreme Court decision saying that as a nation, we educate children without regard to legal status. So, of course, there is not a check of any sort that is done where school funds are concerned.

School districts in many parts of the country have an interest in being sure that parents who live in the district are residents of the district, but that is a different kind of a requirement and checking than the legal/illegal immigrant situation would be.

Senator KENNEDY. I imagine the migrant is a different program as well, because the residency issues are somewhat different because of the movements in terms of children and children's education.

Let me come back, because we are going to follow the 8-minute rule. Ms. Rivlin, what can you tell us just about how the Urban Institute is doing its evaluation? Are you satisfied just from the modalities that they are working on, the results of which you expect to have in about a month, that you are satisfied as an economist? You don't know where they are going to come out, as I understand it, but have you reviewed the way they are evaluating the various information so that we will know in that period of time what the costs are?

I think as Senator Simon brought out earlier, the issues which I think people would want to know is the extent that immigrants contribute an amount in direct and indirect taxes to our economy and also to the extent of the costs of services to undocumented aliens, taking into account the taxes that they pay. I think people are interested in that. We had useful comments from the earlier panel in terms of their sense about the issue.

What can you tell us about what you know about that now and what you think the Urban Institute study will provide for us?

Ms. RIVLIN. I wish I could have the study here and be reporting on it, but it is not quite ready. Even when it is ready, it is, as I said, a first step.

But I think it is a thorough look, review of the methodology that has been used to estimate these costs and the revenues associated with three kinds of State taxes, income, sales, and property. It doesn't go to all the revenues that might indirectly come into States as a result of immigrants but it does look at the costs of the major programs in education and Medicaid that are impacted by illegal immigrants.

Senator KENNEDY. Just a final two questions, because the time is moving on, you did mention the importance of administrative enforcement of existing labor laws in terms of exploitation of undocumented workers in the workforce in the United States. That, as I understand, is a priority with the administration, is that right, Ms. Meissner?

Ms. MEISSNER. Certainly enforcement of employer laws, yes. Where State laws are concerned, it is true that States have labor law enforcement of a variety of kinds. Some States have employer sanctions laws that parallel the Federal employer sanctions laws, and we certainly encourage vigorous enforcement of those laws.

Senator KENNEDY. Are the States asking for additional help and assistance in the enforcement of their own laws, or should they do it? Obviously, if there are not going to be the jobs there, there is less of a pull in terms of having them come here. We are looking at trying to deal with the illegal aspects of the problem, and this is one of the aspects of it. There is no question that there is extraordinary exploitation of illegals with all the implications of an underclass and what that means in terms of their children seeing their parents exploited and violence and a whole very significant kind of a problem.

Maybe I will write you as well as the Secretary of Labor a letter to try to find out what is being done and whether there are additional ways that we can proceed.

Let me ask you, I understand our Embassy in Haiti is quoted as saying that some Haitians have been cleared for refugee status and have been unable to leave Haiti since the commercial flights have been terminated, and our Embassy is quoted as saying they could be in significant personal danger.

Can you bring us up to date, or would you let us know—

Ms. MEISSNER. Yes; this has been of very serious concern to us for quite some while, the issue of bringing Haitians out of Haiti who have been accepted as refugees. It is very unfortunate, what occurred in the last several days with the final flights going out, because a number of people who were scheduled to leave and whom we had thought had assured seats were indeed bumped from their seats or other people bribed their way past the refugees, et cetera.

The State Department, indeed, the administration overall, is working as prodigiously as possible to bring charter flights in that bring these people out and to do whatever we can to assure their safety.

Senator KENNEDY. I would think they would be the number one targets, if they had been accorded the status here, given asylum because of their political opposition.

Ms. MEISSNER. That is absolutely correct.

Senator KENNEDY. They are in life-threatening situations, given the kind of conditions there, so we obviously want to be helpful in ensuring the safety of those people.

Senator Simpson?

Senator SIMPSON. Thank you, Mr. Chairman, and welcome, Dr. Rivlin. It is nice to see you again, always.

Ms. RIVLIN. Thank you.

Senator SIMPSON. I also welcome Doris Meissner, who I have worked with for 15 years here, and you, too, Dr. Rivlin, for the very steady, courageous views you have on the deficit and making recommendations. I remember working on the Commission with Sam Nunn and Pete Domenici as we worked on those issues.

Ms. RIVLIN. Yes.

Senator SIMPSON. You know the problem. Whether you will be allowed to give us honest recommendations toward their solution is beyond my belief. I don't know. But anyway, we know what the problems are and we have a lot to do.

I was interested in your remarks. I fully agree with your conclusion that the Federal Government's primary responsibility is to ensure that unauthorized aliens are kept out of the United States, legal immigrants are welcome, and refugees are protected from harm. That is a good theory, and I believe no country in the world does more. They don't. There are none that do more or a better job of receiving refugees and welcoming legal immigrants than does the United States.

Yet I doubt there are many in the world that do a poorer job than we in keeping unauthorized aliens out of their country. In other countries of the Western World or all over the world, Australia, England, Canada, and across the world, Japan, these things are important to them, the control of their borders, who comes to

their country, who do they invite in. We don't seem to get that, at least with illegal aliens, we don't seem to understand that.

You referred to, a couple of times, problems that this administration inherited, and it made me think of the one we inherited from the previous administration with Cuba, a problem which continues to this day of thousands of Cuban criminals in our prisons because we cannot deport them.

I support your position in the best way to curtail fiscal burdens on the States through improved enforcement, and that is where we must put our resources. I agree it has to be a cooperative effort with the States.

I had particular feelings of irony how State governments in some of the most impacted States resisted so what we were doing in the early 1980's because they had illegal, cheap, exploited labor. I didn't get any help from anybody, Democrat or Republican, from those States in the early 1980's. It is all new now. I appreciate the good auspices and the good assistance of many, and many on this committee.

The one that is peculiar to me, and we tried to deal with it in the conference committee on the crime bill, is State and local governments passing ordinances and rules which prohibit State and local agencies from cooperating or communicating with the INS. Now, that has to stop. That is a leftover from the sanctuary movement which got off the rail anyway way back there.

I believe cooperation has to be conditioned for any Federal reimbursement. In other words, you are not going to get bucks from the Federal Government if the local governments can't communicate with the INS about illegal immigration and those who are involved in it.

Do you have any view on that?

Ms. RIVLIN. I do not. I actually wasn't aware that we had those kinds of restrictions. Ms. Meissner may have dealt with them more directly.

Senator KENNEDY. Do you have any view, Doris, on that?

Ms. MEISSNER. We do have situations where there have been, as you say, ordinances, resolutions, policies, explicit or implicit, of noncooperation. To a great extent, we have been able to work around those situations, and in most cases, they are no longer as forcefully pursued at the State and local level as they might have been 5 to 10 years ago.

I think it was interesting that in the Commission's report this morning, the Commission is taking the specific step of saying that impact aid needs to be conditioned on a few criteria and the first of those criteria is cooperation.

We do appreciate, I think, the concern at the State and local level that sometimes has been underlying noncooperation practices, that concern being that, particularly in the law enforcement community, it is very important that State and local authorities have open communication in their own communities, that there has been a fear in some places that that is jeopardized by working with the Immigration Service.

We don't believe that that needs to be the case. We are, I think, increasingly sophisticated in our ability to make distinctions with

State and local law enforcement officials on the appropriate means of cooperation.

We in particular, I think, as we improve our own data systems and improve our own information capabilities, will be able to work cooperatively in law enforcement in ways that positively contribute both to our Federal mission as well as to State and local law enforcement missions.

Senator SIMPSON. I thank you. We are not trying to force these communities to do something which would expose people to their own peril, but we are not going to give wads of Federal bucks to communities who prohibit communication with the INS. That is something I think most rational people, hopefully, will see that does not take place. We are not forcing, but we are just saying you cannot prohibit communication, and that is what some of them have done—the City of Oakland, absurd. They will all be there now under the crime bill just shaking the tin cup, waiting for all the bucks, and still having ordinances on their books to prohibit the ability to communicate with the INS about illegal immigration. I hope we can clean that one up.

Let me ask you just a question, a final question on the Urban Institute, Dr. Rivlin. You have selected them to conduct the study on the financial impact. Apparently, they are near a report. The Urban Institute has already taken a very clear position on the issue of whether immigrants are a net benefit or cost to the State and local government. Their bias is totally clear, totally evident. Immigrants put more in than they take out. That is their view. That is the view of the Urban Institute, at least two of their researchers, Michael Fixx and Jeffrey S. Passel. Those are Urban Institute researchers.

If you could, tell us what the selection process was to find an organization to conduct the study and the criteria and what other organizations or individuals might have been considered. What impact, if any, did the Urban Institute's public position, which is again reiterated in the Los Angeles Times as of yesterday, August 8, have on this? Did you consider selecting a panel of individuals from a variety of perspectives on the issue or with no position on the issue? I would be interested in that.

Ms. RIVLIN. In the first place, Senator, we are talking about a different issue. It isn't the question of whether all immigrants contribute on the average positively to the economy of the United States. I think most people who have looked at the information would say that if the question were, is immigration in general a positive benefit to the United States, that the answer would be yes. That was certainly the reaction given by Chairman Jordan on the previous panel.

That is not the question we are asking the Urban Institute. We are talking here about illegal immigration. As far as I know, they have not said that that has a positive benefit. Indeed, other studies from the Urban Institute have indicated that it is not. We don't know exactly how this study is going to come out.

The Urban Institute was selected because they do have a history of studying the immigration problem and doing a good job with it. We looked at other options and decided that they had a good staff that was experienced with looking at the immigration data and

could do a good job on it. I don't think that their conclusions are in any way foreshadowed.

Senator SIMPSON. Just a final quick one, we spend a lot of time, and that is why I wanted to bring it up, discussing the costs and benefits of immigrants, and in the case of the Urban Institute study, the cost/benefit of illegal aliens.

Over the many months I have been watching, we have the Urban Institute and Prof. Donald Huddle ping-ponging back and forth on the debate of the issue of their reports and their studies, one that, as Professor Huddle says, is just destruction of the United States by what they take out of the system, and then the Urban Institute in at least some of their studies saying the net benefits.

Isn't all of this totally irrelevant with regard to the enforcement of our immigration laws?

Ms. RIVLIN. Yes.

Senator SIMPSON. Do you agree with that?

Ms. RIVLIN. I do; with regard to enforcement of our immigration laws, the cost/benefit analysis is totally irrelevant. Doris Meissner's job and the legal system's job is to enforce the law and to make sure, as I said at the beginning of my statement, that we, to the extent possible, don't have illegal immigrants into the United States. That is the law. It wouldn't matter if they made a positive contribution. It is still the law and we need to enforce it.

The question that we were addressing is not that one at all. It is the question of States saying, OK, we have a lot of illegal immigrants here already and they are costing us something and we want some relief. Now the relief that they have been asking for is based on very inadequate information.

The point of this study, and it will not be the last one, was to estimate more accurately what is the impact of past illegal immigration on States and their increased cost of services.

Senator SIMPSON. I thank you.

Do you agree about the relevancy argument, Doris?

Ms. MEISSNER. I agree, yes.

Senator SIMPSON. Thank you very much.

Senator KENNEDY. Senator Simon?

Senator SIMON. I thank you very much.

First of all, Dr. Rivlin, we welcome you in your new role here and congratulate you.

You mentioned the Urban Institute study that you will receive in about a month. Does that mean it will become public property in about a month?

Ms. RIVLIN. Yes; I always hesitate when there is a study about to come to give an exact date, but our intention is to make it public.

Senator SIMON. Commissioner Meissner, first of all, I was in a meeting, I guess 2 weeks or 10 days ago, discussing some immigration problems, and there was unanimity in the group that Commissioner Meissner is doing a find job as INS Commissioner. I just thought I would pass that along.

Ms. MEISSNER. Thank you very much.

Senator SIMON. In an area where you don't get too many plaudits, unfortunately.

What are we learning from the El Paso experience?

Ms. MEISSNER. We are learning very useful things from the El Paso experience. We are learning, first of all, that you can achieve prevention of illegal entry to some degree, and you can achieve that prevention by using your resources in thoughtful ways. In other words, the way in which you deploy your people, the combination that you use among your people, your equipment, and your technology is extremely important and has a significant effect on your ability to enforce the law more fully and more effectively.

So the idea of prevention, the idea of keeping people from—the idea that the best enforcement is enforcement that prevents entry in the first place, that fundamental idea is being demonstrated and that is the key thing that we have learned.

Flowing from that, we are learning now as time goes on that, of course, there are adaptations. The people who are interested in crossing adapt to the changes that the Immigration Service makes in its use of resources.

What we are finding is that those people who have habitually crossed and tended to cross for short periods of time in El Paso to work are being deterred. We are not quite as effective on deterring people who are intending to come into the country, further into the country, those who have longer-staying and longer distance ambitions.

That goes right to the heart of what we have always said about illegal immigration, and that is that one needs to have a comprehensive response to illegal immigration. It is first and foremost an issue where we need to deter at the border, but it is, in addition, an issue where one needs a variety of other tools in place and the other tools that need to be in place are things that we have explained over time and that we have proposals before the Congress to address and so forth.

I think the final thing that we are learning has to do with our own workforce as the Immigration Service. We are learning that it is a very different kind of work for our own officers to be involved in prevention and deterrence than it was to be involved in chasing people down with an apprehension focus, and that requires of us and is eliciting from us more creative responses in rotating our people, in creating a variety of assignments so that they are able to be productive in different ways.

So this is very much an ongoing activity for us but one that we are pleased to be engaged in because we are showing much, much more important results than our past methods have shown.

Senator SIMON. Have you or will you be doing some kind of a memorandum on what you are learning, kind of a reflection on this? I would be interested in having one, if you have one already. If you don't have one, it does seem to me at some point it would be a good thing for you internally and I would be interested in seeing it, too.

Ms. MEISSNER. I agree with that. We have done some preliminary evaluations and one of the critical things that I would add to my earlier list is the need for the Immigration Service to measure its effectiveness differently. In the past, as you know, our traditional measure of effectiveness has always been apprehensions. We have always known that that is an insufficient measure. This now

puts a much heavier burden on us, the prevention program, to have a better sense of what is working and what isn't working.

Moreover, the Commission from which you just heard has commissioned a very nice study which is now complete from the University of Texas which basically corroborates what I have just said and which gives some very useful evaluation of what has been going on with the "Hold-the-Line Operation" and we can certainly make that available to you.

Senator SIMON. If you could do that, I would appreciate it, and I thank you both.

Thank you, Mr. Chairman.

Senator KENNEDY. Senator Feinstein?

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

Senator Simpson mentioned the article in the Los Angeles Times, the op-ed piece, and it was done by Messrs. Fixx and Passel. The title is "Who's on the Dole? It's Not Illegal Immigrants." But in reading the article, I find that it substantially blurs the difference between illegal and legal immigrants, at least to this reader. It is very difficult.

I would hope, Ms. Rivlin, that when the Urban Institute does produce the report that there not be a blurring of status in the findings, that we be able to discern, because my concern deals with illegal immigration. I want to see legal immigration protected. I also want to see our borders enforced. There is a blurring across the line. I think it is very important that the data that comes forward not blur those distinctions.

Ms. RIVLIN. I agree, Senator. There is a blurring in the public mind, I think, and Senator Simon also referred to this earlier.

The Urban Institute study is specifically focused on the fiscal impact of illegal immigration. It will, I think, be a contribution to that specific topic.

Senator FEINSTEIN. Good; thank you very, very much.

Commissioner Meissner, I was very interested in the update on the progress that you were giving Senator Simon. I wonder if you could perhaps give us a progress report on border enforcement on the southwest border, whether you have begun the El Paso experiment—when I talked to you last, you were going to begin it in the San Diego area—where there are more Border Patrol than the 40 additional ones. I would appreciate any update of status that you could provide at this time.

Ms. MEISSNER. Actually, we are just putting together, and we will have it finished in another week or so, an across-the-board progress report on all of our initiatives and we will be sending that to you, the committee, and other interested members.

In terms of just a couple of signal numbers that you and I have exchanged in the past where San Diego is concerned, we now have 62 new officers on the line. We are deeply into the hiring process for the support personnel which free up additional officers and those support personnel are coming on in very large numbers during the month of September. Two new classes have just started in August. Two more classes will arrive on the line on the 15th of September. All of the rest of our new hires are beginning their training at one date or another between now and the beginning of the next fiscal year.

So we are on schedule, and as I say, in another week or so, we will have an across-the-board progress report for you.

Senator FEINSTEIN. Thank you very much. I wanted to mention to you, I know the Governor has indicated that he could make available additional facilities if INS needs them, so I just wanted to point that out.

Ms. MEISSNER. Yes; we have his letter on that and we have responded to it. We at the present time have adequate capacity in our own facilities. We will, depending on how the budget comes out for the next fiscal year, probably be involved in a very ambitious continuing hiring program, not only for Border Patrol but for inspectors, and so training and training capacity will be a continuing issue and area of importance for the Immigration Service.

Senator FEINSTEIN. I have one other question. We last talked about INS moving to verify the unlawful status of holds in the State prison system. I have the numbers that the State identifies as current holds are 13,679, and potential holds, another 3,900.

Is INS presently engaged in helping with that verification?

Ms. MEISSNER. Yes, absolutely. We are working on that verification not only programmatically with the State of California as part of the institutional hearing program, but that same set of numbers and issues is part of the Urban Institute's study because, of course, the costs of incarceration is one of the key elements, so we are refining those numbers right now, this month, because the final set of numbers will be part of that report.

Senator FEINSTEIN. Right.

Ms. MEISSNER. And the figures that you give, that is very much the ballpark.

Senator FEINSTEIN. Let us speak for a moment on the issue of noncooperation of local authorities with INS, particularly in California at present. Is there any evidence of noncooperation with INS among local jurisdictions?

Ms. MEISSNER. We have worked very effectively with the State, and I would have no complaints or concerns to bring to the table where the State is concerned from a cooperation standpoint.

There are some local jurisdictions where there have been issues of one sort or another. I am not prepared now. I would have to follow up more specifically on exactly what they are. As I said earlier, by and large, we have been able to work around those issues, and by and large, cooperation has been improving over time, but there are specific instances from place to place that are of concern to us.

Senator FEINSTEIN. I would very much appreciate knowing about those specific instances, if you could let me know. I am aware of the fact that State law has changed in this regard to be much stronger with respect to cooperation. I would be very interested in personally reviewing any specific instances of non-cooperation with Federal authorities. I thank you very much.

Ms. MEISSNER. Thank you.

Senator KENNEDY. I want to thank both of you very much for coming. I took note earlier about the significance of Alice Rivlin being here today, the priority that the administration has placed on this, the extensive period of time and attention that Attorney General Reno gave to our committee in responding to the members

and now Alice Rivlin, who has taken the time to be available to us today and also to work with us on these issues.

I think it is a very clear indication, and one which should be certainly understood by the members of the committee of the very, very important priority that this whole issue has within the administration. So we welcome that kind of attention and we want to work very closely through the process.

We want to, once again, thank you, Ms. Meissner, for your presence here and for the continued help.

There are a few additional areas that I was interested in inquiring of, and I will submit some questions to you. Obviously, we will leave the record open until the first of the week for additional questions, until Monday.

[The questions of Senator Kennedy follow:]

[Senator Kennedy's questions were not available at presstime.]

Senator SIMPSON. Mr. Chairman, may I, too, if I may, submit some questions, particularly in the area of whether we were wrong when we were doing illegal immigration, thinking that most illegal aliens had entered illegally rather than being overstayers. These figures are rather striking, 50-50. The Attorney General shared that with us, too, an estimate that 50 percent of the illegal alien population is visa overstayers. It is a startling figure.

If what we were up to was 3 million people here illegally, and of course then we legalized some 3 million people through the legitimate process and through the phony one of the agricultural worker. We did it all. But nevertheless, I would like to know that.

Then, Mr. Chairman, I think with the reports we have had and hearings we have had and the Commission now giving us an interim report and these fine people hearing that obviously something should be thinking of moving from this subcommittee and committee, or else the staffs, working as they do in this place, will simply compile a magnificent bill and trot it out. I think we need to do any trotting through here. It would seem appropriate.

I am not trying to put an embarrassing position to you, but you have been helpful through the years, the 16 years you and I have worked together, and I think there is a backlog there. There are six U.S. Senators, seven now, who have their own bills. I think that it is appropriate, and I will be glad to work with you to see what we can do there, to be showing something through this committee of jurisdiction of what we are doing, even if it goes rather far-ranging, to the asylum issue, to the other, to the other, to the others and all the rest.

[The questions of Senator Simpson follow:]

[Senator Simpson's questions were not available at presstime.]

Senator KENNEDY. We are going to look forward to reviewing these recommendations. I think we are always glad to try and see if we can find some common ground and move on some common ground. We are glad to do it. We may be able to find that, and I will certainly work to do it. It may very well be, and certainly not any of the ones here will be faced with different situations where there is just the desire to make some political points on these matters as well, which doesn't really help move along in terms of a responsible way.

Senator SIMPSON. I found this issue never earned me a political point anywhere, ever—nowhere. [Laughter.]

Senator KENNEDY. In any event, we will try and work with Senator Simpson, Senator Simon, and the other members of the committee, and we will keep in close contact with you and the other members of the administration for counsel and advice.

We thank you very much. We stand adjourned.

[Whereupon, at 12:42 p.m., the subcommittee adjourned.]

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